

Law on Asylum

Zakon o azilu

Na osnovu člana 88 tačke 2 Ustava Republike Crne Gore donosim

**UKAZ
O PROGLAŠENJU ZAKONA O AZILU**

Proglašavam Zakon o azilu, koji je donijela Skupština Republike Crne Gore, na sedmoj sjednici prvog redovnog zasjedanja u 2006. godini, dana 10. jula 2006. godine.

Broj: 01- 993/2
Podgorica, 11. 07. 2006. godine

Predsjednik Republike Crne Gore
Filip Vujanović, s. r.

**ZAKON
O AZILU**

I. OPŠTE ODREDBE

Predmet zakona

Član 1

Ovim zakonom propisuju se principi, uslovi i postupak za davanje azila, priznavanje statusa izbjeglice i odobravanje dodatne i privremene zaštite, organi nadležni za odlučivanje, prava i obaveze lica koja traže azil, kojima je priznat status izbjeglice i odobrena dodatna ili privremena zaštita, kao i razlozi za prestanak i ukidanje statusa izbjeglice i dodatne zaštite i prestanak privremene zaštite u Republici Crnoj Gori (u daljem tekstu: Crna Gora).

Davanje azila

Član 2

Strancu se garantuje pravo na podnošenje zahtjeva za dobijanje azila u Crnoj Gori.

Azil se daje strancima kojima je potrebna međunarodna zaštita u skladu sa Konvencijom o statusu izbjeglica iz 1951. godine, Protokolom o statusu izbjeglica iz 1967. godine, Evropskom konvencijom za zaštitu ljudskih prava i osnovnih sloboda iz 1950. godine i drugim ratifikovanim međunarodnim ugovorima i opšteprihvaćenim pravilima međunarodnog prava, saglasno ovom zakonu.

On the basis of Article 88, point 2, of the Constitution of the Republic of Montenegro, I hereby adopt an

**ORDER
ON THE PROMULGATION OF THE LAW ON
ASYLUM**

I hereby promulgate the Law on Asylum, which was enacted on 10 July 2006 by the Parliament of the Republic of Montenegro on the seventh sitting of the first regular session in 2006.

Number: 01-993/2
Podgorica, 11 July 2006

President of the Republic of Montenegro
Filip Vujanovic, *propria manu*

**LAW
ON ASYLUM**

I. GENERAL PROVISIONS

Subject Matter of the Law

Article 1

This Law prescribes the principles, conditions, and procedures for granting asylum, recognizing refugee status, and according subsidiary and temporary protection, the authorities responsible for decision-making, the rights and obligations of asylum seekers, persons who have been recognized as refugees and persons who have been accorded subsidiary or temporary protection, as well as the reasons for the cessation and revocation of refugee status and subsidiary protection and the cessation of temporary protection in the Republic of Montenegro (hereinafter Montenegro).

Granting Asylum

Article 2

An alien shall be guaranteed the right to file an application for asylum in Montenegro.

Asylum shall be given to aliens in need of international protection in accordance with the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and other ratified international agreements and universally accepted rules of international law, pursuant to this Law.

Status izbjeglice priznaje se strancu ako se, po njegovom zahtjevu za dobijanje azila, utvrdi da je opravdan strah od progona zbog njegove rase, vjere, nacionalnosti, pripadnosti određenoj društvenoj grupi ili političkih mišljenja u državi porijekla i zbog toga ne može ili ne želi da koristi zaštitu države porijekla.

Dodatna zaštita, kao dopunska zaštita izbjeglica u skladu sa dokumentima o ljudskim pravima, odobrava se strancu koji ne ispunjava uslove za priznavanje statusa izbjeglice, a koji bi, u slučaju povratka u državu porijekla ili drugu državu, bio podvrgnut mučenju ili nečovječnom ili ponižavajućem postupanju ili kažnjavanju ili bi njegov život, bezbjednost ili sloboda bili ugroženi nasiljem opštih razmjera, spolnom agresijom, unutrašnjim sukobima, masovnim kršenjima ljudskih prava ili drugim okolnostima koje ozbiljno ugrožavaju život, bezbjednost ili slobodu.

Privremena zaštita je hitna i izuzetna mjera kojom se strancima obezbjeđuje zaštita u slučaju masovnog, iznenadnog ili očekivanog dolaska iz države u kojoj su njihov život, bezbjednost ili sloboda ugroženi nasiljem opštih razmjera, spolnom agresijom, unutrašnjim sukobima, masovnim kršenjem ljudskih prava ili drugim okolnostima koje ozbiljno ugrožavaju život, bezbjednost ili slobodu, a zbog masovnog dolaska ne postoji mogućnost da se sprovede postupak po pojedinačnim zahtjevima za utvrđivanje statusa izbjeglice.

Primjena drugih zakona

Član 3

Odredbe zakona o opštem upravnom postupku primjenjuju se u postupku azila, ako ovim zakonom nije drukčije određeno.

Odredbe zakona kojim se uređuje boravak stranaca ne mogu se primjenjivati od podnošenja zahtjeva za dobijanje azila do donošenja konačne odluke.

Smatra se da je stranac odustao od zahtjeva za odobrenje boravka, podnijetog prema odredbama zakona iz stava 2 ovog člana, ako je podnio zahtjev za dobijanje azila.

Refugee status shall be recognized with respect to an alien if, based on his or her asylum application, it has been established that he or she has a well-founded fear of being persecuted for reasons of race, religion, citizenship, membership of a particular social group, or political opinion, in his or her country of origin, and because of this fear he or she is unable or unwilling to avail himself or herself of the protection of the country of origin.

Subsidiary protection, as supplemental protection of refugees in accordance with human rights instruments, shall be accorded to an alien who has not met the requirements for the recognition of refugee status but who would be subjected to torture or inhuman or degrading treatment or punishment, or whose life, safety or freedom would be threatened on account of generalized violence, foreign aggression, internal conflict, massive violations of human rights or other circumstances which seriously threaten life, safety or freedom, in case he or she is returned to his or her country of origin or another state.

Temporary protection is an urgent and exceptional measure by which aliens shall be provided protection in the case of a mass, sudden or expected influx from a state where their life, safety or freedom is threatened on account of generalized violence, foreign aggression, internal conflict, massive violations of human rights or other circumstances which seriously threaten life, safety or freedom, where because of the mass influx there is no possibility to conduct individual procedures for refugee status determination.

Applicability of Other Laws

Article 3

The provisions of the Law on General Administrative Procedures shall apply to asylum procedures except as otherwise provided for in this Law.

The provisions of the law governing the residence of aliens may not be applied, once an asylum application has been submitted, until a final judgment has issued.

An alien who submits an asylum application shall be considered to have abandoned any application he or she has submitted for residence authorization under the provisions of the law referred to in paragraph 2 of this Article.

Značenje izraza

Član 4

Izrazi upotrijebljeni u ovom zakonu imaju sljedeće značenje:

- 1) azil je pravo na boravak i zaštitu stranca kojem je, na osnovu odluke organa koji je odlučivao o zahtjevu za dobijanje azila, priznat status izbjeglice ili odobren drugi oblik zaštite saglasno ovom zakonu;
- 2) stranac je lice koje nije crnogorski državljanin, bilo da je državljanin druge države ili lice bez državljanstva;
- 3) zahtjev za dobijanje azila je podnesak kojim stranac traži azil;
- 4) lice koje traži azil je stranac koji podnese zahtjev za dobijanje azila na teritoriji Crne Gore od dana podnošenja zahtjeva do donošenja konačne odluke;
- 5) izbjeglica je stranac koji se, zbog opravdanog straha da će biti progonjen zbog svoje rase, vjere, nacionalnosti, pripadnosti određenoj društvenoj grupi ili političkih mišljenja, ne nalazi u državi porijekla i nije u mogućnosti ili zbog straha ne želi da se stavi pod zaštitu te države ili stranac bez državljanstva koji se nalazi izvan države u kojoj je imao mjesto stalnog boravka i koji ne može ili zbog straha ne želi da se vrati u državu porijekla;
- 6) lice kojem je priznat status izbjeglice je stranac koji se nalazi na teritoriji Crne Gore, za kojeg nadležni organ utvrdi da je njegov strah od progona u državi porijekla zbog rase, vjere, nacionalnosti, pripadnosti određenoj društvenoj grupi ili političkih mišljenja opravdan i zbog toga ne može ili ne želi da koristi zaštitu države porijekla;
- 7) maloljetno lice bez pratnje je stranac mlađi od 18 godina života, koji je ostao bez pratnje oba roditelja ili staratelja prije ili nakon dolaska u Crnu Goru, sve dok ne bude stavljen pod starateljstvo;
- 8) punoljetno poslovno nesposobno lice je stranac stariji od 18 godina života, koji je odlukom suda potpuno ili djelimično lišen poslovne sposobnosti;

Definition of Terms

Article 4

The terms utilized in this law have the following meanings:

- 1) asylum is the right to residence and protection given to an alien who, on the basis of a decision of the authority charged with adjudicating asylum claims, has been recognized as a refugee or accorded another form of protection pursuant to this law;
- 2) an alien is a person who is not a Montenegrin citizen, irrespective of whether he or she is a citizen of another state or stateless;
- 3) an asylum application is a submission through which an alien seeks asylum;
- 4) an asylum seeker is an alien who submits an asylum application on the territory of Montenegro, from the day of the submission of the application until the issuance of the final judgment.
- 5) a refugee is an alien who, owing to a well-founded fear of being persecuted for reasons of race, religion, citizenship, membership of a particular social group or political opinion, is outside of his or her country of origin and is unable or, owing to such fear, unwilling to avail himself or herself of the protection of that state, or an alien without citizenship who is outside of the country of his or her last habitual residence and unwilling, or owing to such fear, unwilling to return to the country of origin;
- 6) a recognized refugee is an alien who is on the territory of Montenegro and who has been found by the competent authority to have a well-founded fear of persecution in his or her country of origin on account of race, religion, citizenship, membership of a particular social group or political opinion, to be unable or unwilling, owing to such fear, to avail himself or herself of the protection of his or her country of origin;
- 7) an unaccompanied minor is an alien younger than 18 years of age who has been left without the attendance of either parent or guardian either before or after his or her arrival in Montenegro, until he or she has been placed under guardianship;
- 8) an adult without legal capacity is an alien who is over 18 years of age, fully or partially deprived of legal capacity by virtue of a court decision;

9) lice kojem je odobrena dodatna zaštita je stranac koji ne ispunjava uslove za priznavanje statusa izbjeglice, kojem se odobrava boravak i zaštita, jer bi u državi porijekla ili drugoj državi bio podvrgnut mučenju ili nečovječnom ili ponižavajućem postupanju ili kažnjavanju ili bi njegov život, bezbjednost ili sloboda bili ugroženi nasiljem opštih razmjera, spoljnom agresijom, unutrašnjim sukobima, masovnim kršenjima ljudskih prava ili drugim okolnostima koje ozbiljno ugrožavaju život, bezbjednost ili slobodu;

10) lica kojima je odobrena privremena zaštita su stranci kojima se izuzetno obezbjeđuje zaštita u slučaju masovnog, iznenadnog ili očekivanog dolaska iz države u kojoj su njihov život, bezbjednost ili sloboda ugroženi nasiljem opštih razmjera, spoljnom agresijom, unutrašnjim sukobima, masovnim kršenjem ljudskih prava ili drugim okolnostima koje ozbiljno ugrožavaju život, bezbjednost ili slobodu, a zbog masovnog dolaska ne postoji mogućnost da se sprovede postupak po pojedinačnim zahtjevima za utvrđivanje statusa izbjeglice;

11) država porijekla je država ili države čije državljanstvo stranac ima ili u kojoj je lice bez državljanstva imalo mjesto stalnog boravka;

12) zajednica podrazumijeva građane Crne Gore na određenom području.

II. OSNOVNI PRINCIPI

Supsidijarna zaštita

Član 5

Ako organ, nakon sprovedenog postupka po zahtjevu za dobijanje azila, utvrdi da nijesu ispunjeni uslovi za priznavanje statusa izbjeglice, obavezan je da utvrdi da li su ispunjeni uslovi za odobravanje drugog oblika zaštite saglasno ovom zakonu.

Zabrana vraćanja ili protjerivanja

Član 6

Lice kojem je azil dat ili kojem je azil prestao ili je ukinut ne smije biti vraćeno ili protjerano na granicu države u kojoj bi:

1) njegov život ili sloboda bili ugroženi zbog rase, vjere, nacionalnosti, pripadnosti određenoj društvenoj grupi ili političkih mišljenja;

9) a person accorded subsidiary protection is an alien who has not met the requirements to be recognized as a refugee, and who is granted residence and protection because in his or her country of origin or another country he or she would be subjected to torture or inhuman or degrading treatment or punishment, or his or her life, safety or freedom would be threatened on account of generalized violence, foreign aggression, internal conflict, massive violations of human rights or other circumstances which seriously threaten life, safety or freedom;

10) persons accorded temporary protection are aliens to whom protection is provided on an exceptional basis in the case of a mass, sudden or expected influx from a state where their life, safety or freedom is threatened on account of generalized violence, foreign aggression, internal conflict, massive violations of human rights or other circumstances which seriously threaten life, safety or freedom, where because of the mass influx there is no possibility to conduct individual procedures for refugee status determination;

11) country of origin is the state or states of which an alien is a citizen or in which a stateless person had a place of habitual residence;

12) community connotes the citizens of Montenegro within a specific area.

II. Basic Principles

Subsidiary Protection

Article 5

If an authority, after conducting the procedure to adjudicate an asylum application, determines that the conditions for refugee status recognition have not been fulfilled, it is obligated to determine whether the conditions for according another form of protection have been fulfilled as provided for by this Law.

Non-Refoulement

Article 6

A person who has been granted asylum or whose asylum has ceased or been revoked, shall not be returned or expelled to the border of a state where:

1) his or her life or freedom would be threatened on account of race, religion, citizenship, membership of a particular social group or political opinion;

2) mogao biti izložen mučenju, nečovječnom ili ponižavajućem postupanju ili kažnjavanju;

3) njegov život, bezbjednost ili sloboda bili ugroženi nasiljem opštih razmjera, spoljnom agresijom, unutrašnjim sukobima, masovnim ugrožavanjem ljudskih prava ili drugim okolnostima koje ozbiljno ugrožavaju život, bezbjednost ili slobodu.

Na prava iz stava 1 ovog člana ne može se pozvati lice za koje postoje ozbiljni razlozi da se smatra da ugrožava bezbednost Crne Gore ili, nakon što je pravosnažnom presudom osuđeno za teško krivično djelo, predstavlja opasnost za zajednicu, osim u slučaju iz stava 1 tačka 2 ovog člana.

Nakon utvrđivanja uslova iz stava 1 tačka 2 ovog člana, licu se odobrava boravak u skladu sa zakonom kojim se uređuje boravak stranaca.

Nediskriminacija

Član 7

U postupku davanja azila zabranjena je diskriminacija po bilo kom osnovu, a naročito po osnovu rase, boje, pola, nacionalnosti, društvenog porijekla ili rođenja, vjere, političkih ili drugih mišljenja, države porijekla, imovnog stanja, kulture, jezika, starosti, psihičkog ili fizičkog invaliditeta.

Povjerljivost i zaštita podataka

Član 8

Povjerljivi su i predstavljaju službenu tajnu svi lični podaci iz pojedinačnog zahtjeva za dobijanje azila, kao i sve izjave, objašnjenja i podaci iz isprava koji se saznaju ili upotrijebe tokom postupka.

Organi koji vode postupak, drugi organi i lica koja učestvuju u postupku obavezni su da lične podatke koje prikupe ili saznaju u toku postupka čuvaju u skladu s ratifikovanim međunarodnim ugovorima, propisima o zaštiti ličnih podataka i ovim zakonom.

Organi i lica iz stava 2 ovog člana obavezni su da obezbijede da izjave, objašnjenja i podaci iz isprava iz stava 1 ovog člana ne dođu u posjed organa države porijekla lica koje traži azil.

2) he or she could be subjected to torture, inhuman or degrading treatment or punishment;

3) his or her life, safety or freedom would be threatened on account of generalized violence, foreign aggression, internal conflict, massive violations of human rights or other circumstances which seriously threaten life, safety or freedom.

The rights referred to in paragraph 1 of this Article may not be invoked by a person if there are serious reasons to believe that he or she is a threat to the security of Montenegro, or if he or she, after being convicted through a final court judgment of a serious criminal offence, constitutes a danger to the community, except in the case referred to in point 2, paragraph 1, of this Article.

After it is established that a person meets the conditions described in point 2, paragraph 1, of this Article, the person shall be given authorization for residence in accordance with the law governing the residence of aliens.

Non-Discrimination

Article 7

Discrimination in the asylum procedure is prohibited on any basis, and in particular on the basis of race, color, sex, citizenship, social origin or birth, religion, political or other opinions, country of origin, economic status, culture, language, age, or mental or physical disability.

Confidentiality and Data Protection

Article 8

All personal data contained in individual asylum applications, as well as all statements, explanations and data from documents that become known or are used in the course of the procedure, shall be confidential and constitute official secrets.

The authorities conducting the procedure, other authorities and persons involved in the procedure shall store the personal data they collect or learn in the course of the procedure in accordance with ratified international agreements, regulations on personal data protection and the provisions of this Law.

The authorities and persons referred to in paragraph 2 of this Article are obligated to ensure that the statements, explanations and data from the documents referred to in paragraph 1 of this Article do not become available to the authorities of the asylum seeker's country of origin.

Visokom Komesarijatu Ujedinjenih nacija za izbjeglice (u daljem tekstu: Visoki komesarijat) omogućuje se neometan pristup licima koja traže azil, njihovim dosijeima, informacijama i statističkim podacima.

Jedinstvo porodice

Član 9

U postupku davanja azila preduzeće se mjere za očuvanje jedinstva porodice, uz saglasnost lica koje traži azil.

Nekažnjavanje za nezakoniti ulazak ili boravak

Član 10

Neće se kazniti za nezakonit ulazak ili boravak lica koje traži azil i koje je direktno došlo iz države u kojoj su njegov život ili sloboda bili ugroženi u smislu člana 2 ovog zakona, ako bez odlaganja podnese zahtjev za dobijanje azila i iznese razloge, priznate kao valjane, njegovog nezakonitog ulaska ili boravka.

Lice iz stava 1 ovog člana neće se lišiti slobode, osim kada je to propisano zakonom.

Zaštita lica sa posebnim potrebama

Član 11

U postupku davanja azila vodiće se računa o posebnim potrebama maloljetnih lica, lica potpuno ili djelimično lišenih poslovne sposobnosti, maloljetnih lica bez pratnje, lica sa psihičkim ili fizičkim invaliditetom, starih lica, trudnica, samohranih roditelja sa maloljetnom djecom, lica koja su bila izložena mučenju, silovanju ili drugim teškim oblicima psihičkog, fizičkog ili seksualnog nasilja i drugih ugroženih lica.

Odredbе koje se odnose na pol

Član 12

Prema licu koje traži azil, u svim fazama postupka, postupa se na način koji uvažava njegov pol.

Lice koje traži azil ima pravo na komunikaciju sa službenim licem i prevodiocem istog pola.

Lice ženskog pola, koje je u pratnji lica muškog pola, obavještava se o pravu na podnošenje ličnog

The Office of the United Nations High Commissioner for Refugees (hereinafter: UNHCR) shall be given unhindered access to asylum seekers, their files, information and statistical data.

Family Unity

Article 9

With the consent of the asylum seeker, measures shall be taken in the asylum procedure for safeguarding family unity.

Non-Punishment for Unlawful Entry or Residence

Article 10

An asylum seeker who has come directly from a state where his or her life or freedom was threatened in the sense of Article 2 of this Law shall not be punished for unlawful entry or residence, provided that he or she files an asylum application without delay and cites reasons, recognized as valid, for his or her unlawful entry or residence.

A person referred to in paragraph 1 of this Article shall not be deprived of liberty except as prescribed by law.

Protection of Persons with Special Needs

Article 11

In the asylum procedure, care shall be taken of the special needs of minors, persons completely or partially deprived of legal capacity, unaccompanied minors, persons with mental or physical disabilities, the elderly, pregnant women, single parents with minor children, persons subjected to torture, rape or other serious forms of mental, physical or sexual violence and other vulnerable persons.

Provisions Relating to Gender

Article 12

Asylum seekers shall be treated in a gender-sensitive manner at all the stages of the asylum procedure.

An asylum seeker shall have the right to communicate with an official and interpreter of the same gender.

Females who are accompanied by males shall be informed of their right to file their own personal

zahtjeva za dobijanje azila.

Poštovanje pravnog poretka

Član 13

Lice koje traži ili koje je dobilo azil obavezno je da se pridržava Ustava, zakona, drugih propisa i ratifikovanih međunarodnih ugovora i da postupa po mjerama nadležnih organa.

Ograničenje političkog djelovanja

Član 14

Licu koje traži ili koje je dobilo azil zabranjeno je osnivanje, učestvovanje i pomaganje političkih i drugih organizacija koje svojim djelovanjem ugrožavaju bezbjednost i javni poredak Crne Gore ili su njihovi ciljevi suprotni načelima međunarodnog prava.

Dobrovoljni povratak

Član 15

Licima kojima je priznat status izbjeglice ili odobren drugi oblik zaštite, koja se dobrovoljno vraćaju u državu porijekla ili treću državu, nadležni organi mogu obezbijediti pomoć.

Po prestanku ili ukidanju statusa izbjeglice i dodatne zaštite ili prestanku privremene zaštite, Kancelarija iz člana 19 stav 2 ovog zakona može, u saradnji sa Visokim komesarijatom, organizovati dobrovoljni povratak u državu porijekla ili treću državu.

Prestanak zaštite

Član 16

Odluka o prestanku ili ukidanju statusa izbjeglice i dodatne zaštite može se donijeti samo nakon sprovedenog postupka i utvrđivanja jednog od razloga za prestanak ili ukidanje zaštite propisanih ovim zakonom.

Pravna zaštita

Član 17

Protiv svake odluke prvostepenog organa koji vodi postupak može se izjaviti žalba.

Žalba se podnosi u roku od 15 dana od dana dostavljanja prvostepene odluke, ako ovim zakonom nije određen kraći rok.

asylum applications.

Respect for Legal Order

Article 13

An asylum seeker or person granted asylum is obligated to abide by the Constitution, laws, other regulations and ratified international agreements, and to act according to the measures of the competent authorities.

Restriction of Political Activity

Article 14

An asylum seeker or person granted asylum is prohibited from founding, taking part in or assisting political and other organizations that, through their activities, threaten Montenegro's security and public order, or that have goals contrary to the principles of international law.

Voluntary Return

Article 15

The competent authorities may provide assistance to recognized refugees or persons accorded another form of protection who voluntarily return to their country of origin or a third country.

Upon the cessation or revocation of refugee status and subsidiary protection, or the cessation of temporary protection, the Office described in Article 19, paragraph 2, of this Law may organize, in cooperation with UNHCR, voluntary return to the country of origin or a third country.

Cessation of Protection

Article 16

A decision on the cessation or revocation of refugee status and subsidiary protection may be issued only after conducting a procedure and establishing one of the reasons for cessation or revocation of protection prescribed by this Law.

Legal Protection

Article 17

An appeal may be lodged against any decision of the first-instance body conducting the procedure.

The appeal must be lodged within 15 days from the day on which the first-instance decision is served, unless a shorter period is provided in this Law.

Protiv odluke drugostepenog organa ne može se pokrenuti upravni spor.

Saradnja sa Visokim komesarijatom

Član 18

Prvostepeni i drugostepeni organ iz člana 17 ovog zakona saraduju sa Visokim komesarijatom u svim fazama postupka davanja azila i dostavljaju obavještenja i statističke podatke o licima koja traže ili kojima je dat azil i primjeni Konvencije o statusu izbjeglica i drugih međunarodnih dokumenata koji se odnose na izbjeglice, kao i zakone i druge propise koji se primjenjuju ili će se donijeti.

III. ORGANI NADLEŽNI ZA ODLUČIVANJE I ZBRINJAVANJE

Kancelarija za azil

Član 19

Organ državne uprave nadležan za unutrašnje poslove (u daljem tekstu: Ministarstvo) vodi prvostepeni postupak, prima zahtjeve i donosi odluke po zahtjevima, vodi postupak i donosi odluke o prestanku i ukidanju azila i obavlja druge poslove u skladu sa ovim zakonom.

Poslove iz stava 1 ovog člana obavlja posebna organizaciona jedinica Ministarstva - kancelarija za azil (u daljem tekstu: Kancelarija).

Odluka po zahtjevu za dobijanje azila donosi se u roku od tri mjeseca od dana podnošenja zahtjeva, ako ovim zakonom nije određen kraći rok.

Državna komisija

Član 20

Državna komisija za rješavanje po žalbama za azil (u daljem tekstu: Državna komisija), vodi postupak po žalbama izjavljenim na odluke prvostepenog organa.

Odluku po žalbi Državna komisija donosi većinom glasova ukupnog broja članova, u roku od dva mjeseca od dana predaje žalbe, ako ovim zakonom nije određen kraći rok.

Državnu komisiju čine predsjednik i četiri člana.

An administrative dispute may not be lodged against a decision of the second-instance body.

Cooperation with UNHCR

Article 18

The first- and second-instance bodies referred to in Article 17 of this Law shall cooperate with UNHCR at all the stages of the asylum procedure and share information and statistical data on asylum seekers, or persons who have been granted asylum, and on the implementation of the Convention Relating to the Status of Refugees and other international instruments concerning refugees, as well as laws and other regulations that are in force or that will be promulgated in the future.

III. AUTHORITIES CHARGED WITH ADJUDICATION AND CARE

Asylum Office

Article 19

The body of the state administration charged with interior affairs (hereinafter: Ministry) shall conduct the procedure in the first instance, receive applications and take decisions on applications, conduct the procedure and take decisions on the cessation and revocation of asylum and perform other tasks in accordance with this Law.

The activities referred to in paragraph 1 of this Article are carried out by a separate organizational unit of the Ministry: the Asylum Office (hereinafter: the Office).

The decision on an asylum application shall be made within three months from the day of the application's submission, unless a shorter period is provided in this Law.

State Commission

Article 20

The State Asylum Appeals Commission (hereinafter: State Commission) shall adjudicate appeals lodged against decisions of the first-instance body.

The State Commission shall take a decision on each appeal by a majority of votes of the total number of members, within two months from the day on which the appeal was lodged, unless a shorter period is provided by this Law.

The State Commission is made up of a president and four members.

Predsjednik Državne komisije ima zamjenika koji se imenuje iz reda članova.

Za predsjednika i članove Državne komisije može biti imenovano lice koje je zaposleno u pravosudnim organima, organima državne uprave i javnim službama i ima završen pravni fakultet i pet godina radnog iskustva.

Predsjednik i zamjenik predsjednika Državne komisije imenuju se iz reda nosilaca pravosudnih funkcija.

Predsjednika, zamjenika predsjednika i članove Državne komisije imenuje Vlada Republike Crne Gore (u daljem tekstu: Vlada), na vrijeme od četiri godine.

Državna komisija donosi poslovnik o radu.

Stručne i administrativne poslove za potrebe Državne komisije obavlja služba ili organ koji odredi Vlada.

Organ za zbrinjavanje

Član 21

Poslove koji se odnose na zbrinjavanje lica koja traže azil, kojima je priznat status izbjeglice, odobrena dodatna ili privremena zaštita vrši organ uprave nadležan za poslove zbrinjavanja izbjeglica (u daljem tekstu: nadležni organ).

Zbrinjavanje lica iz stava 1 ovog člana obuhvata pomoć u ostvarivanju prava na: smještaj, obrazovanje, zdravstvenu zaštitu, socijalnu zaštitu, rad, pravnu pomoć, slobodu vjeroispovijesti, pristup humanitarnim i nevladinim organizacijama, humanitarnu pomoć, spajanje porodice, uključivanje u društvo i drugih prava propisanih ovim zakonom.

Pristup podacima

Član 22

Informacije i podatke o stanju u državi porijekla lica koje traži ili kojem je dat azil i trećoj državi, Kancelarija i Državna komisija mogu prikupljati i tražiti iz različitih izvora, uključujući i Visoki komesarijat.

The president of the State Commission shall have a deputy appointed from among the members.

Such persons may be appointed as president or member of the State Commission who are employed in judicial bodies, the public administration or the public service, and who have completed law school, and who have five years of work experience.

The president and deputy president of the State Commission shall be appointed from among the judiciary.

The president, deputy president and members of the State Commission shall be appointed by the Government of the Republic of Montenegro (hereinafter: Government) for a four-year term.

The State Commission shall adopt rules of procedure.

Technical and administrative tasks for the needs of the State Commission shall be performed by a service or body designated by the Government.

Body Responsible for Care

Article 21

Activities relating to the care of asylum seekers, and persons recognized as refugees or accorded subsidiary or temporary protection are carried out by the administrative body charged with the care of refugees (hereinafter: the competent body).

The care of persons referred to in paragraph 1 of this Article encompasses assistance in realization of the rights to: accommodation, education, health care, social welfare, labor, legal assistance, religious freedom, access to humanitarian and non-governmental organizations, humanitarian assistance, family reunification, social inclusion and other rights prescribed by this Law.

Access to Data

Article 22

The Office and the State Commission may collect and request from various sources, including UNHCR, information and data regarding the situation in the country of origin of an asylum seeker or a person who has been granted asylum, or regarding a third country.

IV. DAVANJE AZILA

1. Prijem lica koja traže azil

Pomoć licima koja traže azil

Član 23

Licu koje traži azil obezbjeđuje se neophodna pomoć i daju obavještenja o uslovima i postupku davanja azila, pravima i obavezama i ostvarivanju komunikacije sa licima koja daju pravnu pomoć, Visokim komesarijatom i drugim organizacijama koje se bave zaštitom prava izbjeglica, po pravilu, u pisanoj formi i na jeziku za koji se realno može očekivati da razumije.

Lice koje traži azil ima pravo da, u svim fazama postupka, ostvari komunikaciju sa licima i organima iz stava 1 ovog člana, radi dobijanja pomoći.

Predstavniku Visokog komesarijata omogućiće se, u svim fazama postupka, komunikacija sa licem koje traži azil i prikupljanje informacija o toku postupka.

Podnošenje zahtjeva za dobijanje azila

Član 24

Namjeru za podnošenje zahtjeva za dobijanje azila stranac može saopštiti na graničnom prelazu, nakon čega se dozvoljava ulazak u Crnu Goru i obezbjeđuje smještaj.

Licu koje traži azil omogućava se da što prije podnese zahtjev za dobijanje azila i izdaje potvrda o podnijetom zahtjevu.

Zahtjev za dobijanje azila podnosi se Kancelariji, u pisanoj formi ili usmeno na zapisnik, na jeziku koji je u službenoj upotrebi u Crnoj Gori. Ukoliko lice koje traži azil ne poznaje jezik koji je u službenoj upotrebi, zahtjev može podnijeti na jeziku države porijekla ili na jeziku koji poznaje.

Državni organ, organ lokalne samouprave ili drugi nenadležni organ kod kojeg stranac zatraži azil, obavezan je da takav zahtjev evidentira i bez odlaganja o tome obavijesti Kancelariju.

Ministarstvo propisuje obrazac zahtjeva za dobijanje azila i obrazac zapisnika iz stava 3 ovog člana.

IV. GRANTING OF ASYLUM

1. Reception of Asylum seekers

Assistance to Asylum seekers

Article 23

An asylum seeker shall be provided necessary assistance, given information on the conditions and procedures for granting asylum, and on rights and obligations, and will be placed in contact with persons providing legal aid, UNHCR and other organizations engaged in protecting the rights of refugees, as a rule, in writing and in a language he or she can be reasonably expected to understand.

An asylum seeker has the right, at all the stages of the procedure, to communicate with the persons and bodies referred to in paragraph 1 of this Article, for the purpose of obtaining assistance.

A representative of UNHCR shall be enabled, at all the stages of the procedure, to communicate with an asylum seeker and collect information on the course of the procedure.

Submission of Asylum Applications

Article 24

An alien may declare, at a border crossing, his or her intention to submit an asylum application, after which he or she shall be permitted to enter Montenegro and provided accommodation.

An asylum seeker shall be enabled, as soon as possible, to submit his or her asylum application and to receive confirmation of the submitted application.

An asylum application shall be submitted to the Office, on a written form or orally on the record, in a language that is in official use in Montenegro. If the asylum seeker does not speak the language in official use, he or she may submit the application in the language of his or her country of origin, or in a language with which he or she is familiar.

A government body, a body of local self-government, or another non-competent body before which an alien seeks asylum is obligated to record the claim and inform the Office about it without delay.

The Ministry shall prescribe a form for asylum applications and a form for the records referred to in paragraph 3 of this Article.

Smještaj lica koje traži azil

Član 25

Licu koje traži azil nadležni organ obezbjeđuje smještaj u centru za smještaj lica koja traže azil (u daljem tekstu: Centar) ili drugom objektu za kolektivni smještaj nadležnog organa.

Licu sa posebnim potrebama obezbjeđuje se poseban smještaj i zbrinjavanje.

Lice koje ima finansijska sredstva ili je u mogućnosti da smještaj i izdržavanje obezbijedi na drugi način može se smjestiti izvan Centra i drugog objekta za kolektivni smještaj, ali nema pravo na socijalnu zaštitu.

Visoki komesarijat, Crveni krst Crne Gore i druge organizacije koje se bave zaštitom izbjeglica, mogu u Centru organizovati vaspitne, obrazovne i druge programe i pružati pravnu i drugu pomoć, uz prethodnu saglasnost nadležnog organa.

Uzimanje podataka

Član 26

Nakon smještaja u Centar, lice koje traži azil se fotografiše, uzimaju se otisci prstiju, potpis, a po potrebi i drugi podaci radi provjere ili utvrđivanja identiteta.

Lice koje traži azil obavezno je da se fotografiše i da da podatke iz stava 1 ovog člana.

Ministarstvo propisuje postupak i način uzimanja podataka iz stava 1 ovog člana.

Privremeno oduzimanje isprava

Član 27

Od lica koje traži azil mogu se privremeno oduzeti isprave koje mogu poslužiti kao dokaz za utvrđivanje činjenica u postupku, ukoliko nijesu priložene uz zahtjev, a naročito: putna isprava, viza i dozvola boravka; lična karta ili druga identifikaciona isprava; uvjerenja, izvodi i druge isprave iz evidencija rođenih, vjenčanih i državljana i putne karte, kao i druge isprave.

Accommodation of Asylum Seekers

Article 25

The competent body will provide accommodation for asylum seekers in the Center for Accommodation of Asylum Seekers (hereinafter: the Center) or in another of the competent body's facilities for collective accommodation.

Persons with special needs will be given special accommodation and care.

A person who has his or her own financial means, or who is in a position to secure accommodation and maintenance in another way, may be accommodated outside the Center or other facility for collective accommodation, but is not entitled to social welfare.

UNHCR, the Montenegrin Red Cross and other organizations dealing with the protection of refugees may organize pedagogical, educational or other programs in the Center and may provide legal or other assistance, upon the consent of the competent body.

Data Collection

Article 26

After being accommodated at the Center, an asylum seeker shall be photographed and fingerprinted, his or her signature shall be taken, and if necessary other data shall be collected for the purpose of verification or establishment of identity.

An asylum seeker is obligated to allow himself or herself to be photographed and to provide the data referred to in paragraph 1 of this Article.

The Ministry will prescribe the procedure and manner of collecting the data referred to in paragraph 1 of this Article.

Temporary Seizure of Documents

Article 27

Documents that can serve as proof for establishing facts in the procedure – in particular, travel documents, visas and residence permits; identity cards or other identification documents; certificates, extracts and other documents from the registries of births, marriages and citizenship, travel tickets, as well as other documents – may be temporarily seized from an asylum seeker if they have not been attached to the application.

O privremeno oduzetim ispravama izdaje se potvrda.

Privremeno oduzete putne i lične isprave vратиće se licu, na njegov zahtjev, osim u slučaju zloupotrebe ili falsifikata.

Maloljetno lice i punoljetno poslovno nesposobno lice

Član 28

Nakon utvrđivanja identiteta i činjenice da je maloljetno lice bez pratnje ili da je punoljetno lice poslovno nesposobno, tim licima obezbjeđuje se staratelj, u skladu sa zakonom.

Zahtjevi za dobijanje azila lica iz stava 1 ovog člana imaju prioritet u rješavanju i odluke se donose u roku od 30 dana od dana podnošenja zahtjeva.

U postupku se vodi računa o smještaju, psihofizičkom stanju i najboljem interesu maloljetnog lica i preduzimaju mjere za pronalaženje članova njegove porodice.

Punoljetno poslovno nesposobno lice ima pravo na potrebnu njegu i zaštitu, u skladu sa zakonom.

2. Prava i obaveze lica koje traži azil

Prava lica koje traži azil

Član 29

Lice koje traži azil ima pravo na:

- 1) boravak i slobodu kretanja;
- 2) identifikacionu ispravu kojom potvrđuje identitet, pravni status, pravo na boravak i druga prava propisana ovim zakonom;
- 3) putni list za stranca, radi putovanja u inostranstvo, saglasno propisima o boravku stranaca;
- 4) besplatno osnovno i srednje obrazovanje u školama čiji je osnivač država;
- 5) obezbjeđenje smještaja ukoliko je potreban i odgovarajućih standarda života;
- 6) zdravstvenu zaštitu, u skladu sa posebnim propisima;
- 7) jedinstvo porodice;

A certificate shall be issued confirming the temporary seizure of documents.

Temporarily seized travel and personal documents shall be returned to the person in question at his or her request, except in the case of abuse or forgery.

Minors and Persons of Age Without Legal Capacity

Article 28

After establishing identity and the fact that a minor is unaccompanied, or that a person of age is without legal capacity, such persons will be provided with guardians in accordance with the law.

Asylum applications by the persons referred to in paragraph 1 of this Article shall be resolved on a priority basis and decisions shall be taken within 30 days from the day of the application's submission.

During the procedure, care shall be taken regarding the accommodation, psycho-physical condition and best interest of a minor, and measures shall be undertaken for the tracing of family members.

A person of age without legal capacity shall be entitled to necessary care and protection, in accordance with the law.

2. Rights and Obligations of Asylum Seekers

Rights of Asylum Seekers

Article 29

An asylum seeker has the right to:

- 1) residence and freedom of movement;
- 2) an identification document proving his or her identity, legal status, residence right and other rights prescribed in this Law;
- 3) an aliens' travel document for the purpose of traveling abroad, pursuant to the regulations on the residence of aliens;
- 4) free primary and secondary education in public schools;
- 5) provision of accommodation to the extent necessary, and appropriate living standards;
- 6) health care, in accordance with separate regulations;
- 7) family unity;

- 8) pravnu pomoć;
- 9) rad u okviru Centra ili drugog objekta za kolektivni smještaj;
- 10) socijalnu zaštitu;
- 11) slobodu vjeroispovijesti;
- 12) pristup Visokom komesarijatu i nevladinim organizacijama, radi pružanja pravne pomoći u postupku davanja azila;
- 13) humanitarnu pomoć.

Obaveze lica koje traži azil

Član 30

Lice koje traži azil obavezno je da:

- 1) boravi u Centru ili drugom objektu za kolektivni smještaj, ukoliko smještaj i izdržavanje nije obezbijedilo na drugi način;
- 2) saraduje sa organima nadležnim za sprovođenje ovog zakona, preda identifikacione i sve isprave koje posjeduje, omogući lični pretres i pretres prtljaga i vozila, saopšti podatke o imovini i prihodima i druge podatke koji mogu poslužiti kao dokaz u postupku;
- 3) bude dostupno i odazove se na poziv Kancelarije i nadležnog organa;
- 4) prijavi nadležnom organu promjene finansijskog i imovnog stanja, koje mogu uticati na ostvarivanje prava na socijalnu zaštitu, smještaj, izdržavanje, zdravstvenu zaštitu i drugih prava;
- 5) prijavi Kancelariji promjenu mjesta boravka i adrese, u roku od tri dana od dana nastale promjene, ukoliko je samo obezbijedilo smještaj;
- 6) ne napušta Crnu Goru bez odobrenja, dok traje postupak po zahtjevu za dobijanje azila;
- 7) se podvrgne zdravstvenom pregledu i drugim mjerama u cilju sprječavanja širenja zaraznih bolesti, u skladu sa propisima iz oblasti zdravstva;
- 8) poštuje kućni red u Centru ili drugom objektu za kolektivni smještaj;
- 9) se pridržava rješenja o privremenom ograničenju kretanja.

- 8) legal aid;
- 9) work within the Center or other facility for collective accommodation;
- 10) social welfare;
- 11) freedom of religion;
- 12) access to UNHCR and non-governmental organizations for the purpose of obtaining legal aid in the asylum procedure;
- 13) humanitarian assistance.

Obligations of Asylum Seekers

Article 30

An asylum seeker is obligated:

- 1) to reside in the Center or other facility for collective accommodation to the extent that accommodation and maintenance is not provided for in another manner;
- 2) to cooperate with the bodies charged with the implementation of this Law, submit identity documents and all documents in his or her possession, facilitate searches of his or her person, luggage and vehicle, provide data on property and income and other data that may be used as evidence in the procedure;
- 3) to remain accessible and reply to requests by the Office and the competent body;
- 4) to report to the competent body changes in finances and property that could affect eligibility for social welfare, accommodation, maintenance, health care and other rights;
- 5) to report to the Office changes of residence and address within three days from the day of the change, in as much as the asylum seeker has provided for his or her own accommodation;
- 6) not to leave Montenegro without permission, during the pendency of the asylum procedure;
- 7) to submit to a medical examination and other measures aimed at preventing the spread of infectious diseases, in accordance with health regulations;
- 8) to respect the house rules of the Center or other facility for collective accommodation;
- 9) to abide by any decision on the temporary restriction of movement.

Privremeno ograničenje kretanja

Član 31

Licu koje traži azil može se, izuzetno, rješenjem nadležnog organa ograničiti kretanje izvan Centra ili drugog objekta za kolektivni smještaj ili izvan određenog područja, a najduže do 15 dana, ako:

- 1) treba utvrditi identitet;
- 2) je uništilo putne ili lične isprave ili posjeduje lažna dokumenta, s namjerom da dovede u zabludu nadležne organe;
- 3) je to potrebno radi zaštite bezbjednosti zajednice.

Lice iz stava 1 ovog člana ima pravo na komunikaciju sa Visokim komesarijatom.

Licu mlađem od 16 godina života, koje je bez pratnje, neće biti ograničeno kretanje, izuzev ako je to jedina mogućnost.

Protiv rješenja iz stava 1 ovog člana, može se izjaviti žalba u roku od osam dana od dana prijema rješenja. Žalba ne odlaže izvršenje rješenja.

3. Postupak po zahtjevu za dobijanje azila

Cilj postupka

Član 32

U postupku po zahtjevu za dobijanje azila utvrđuje se da li su ispunjeni uslovi za davanje azila saglasno ovom zakonu.

Licu koje traži azil ostaviće se dovoljno vremena da se pripremi za davanje izjave i obezbjeđivanje pravne pomoći.

Upotreba jezika i pisma u postupku

Član 33

Ako lice koje traži azil ne razumije jezik koji je u službenoj upotrebi u Crnoj Gori, tok postupka prati i u njemu učestvuje na svom jeziku ili jeziku koji je označio da razumije preko prevodioca kojeg obezbjeđuje Kancelarija.

Temporary Restriction of Movement

Article 31

An asylum seeker may, on an exceptional basis and through a decision of the competent body, be restricted in movements outside of the Center or other facility for collective accommodation, or outside of a designated area, for up to 15 days if:

- 1) his or her identity needs to be established;
- 2) he or she has destroyed his or her travel or personal documents or possesses false documents with the intention of misleading the competent authorities;
- 3) it is necessary to do so in order to protect the safety of the community.

The person referred to in paragraph 1 of this Article has the right to communicate with UNHCR.

The movement of persons under 16 years of age, who are unaccompanied, shall not be restricted unless that is the only possibility.

An appeal against the decision referred to in paragraph 1 of this Article may be lodged within eight days from the day of the receipt of the decision. The appeal shall not have suspensive effect.

3. Asylum Procedure

Objective of the Procedure

Article 32

In the course of the asylum procedures it shall be established whether the conditions for granting asylum have been fulfilled in accordance with this Law.

An asylum seeker shall be given sufficient time to prepare his or her statement and to obtain legal aid.

Use of Language and Script in the Procedure

Article 33

If an asylum seeker does not understand the language in official use in Montenegro, he or she shall follow the course of the procedure and participate in it in his or her own language, or in a language that he or she has indicated he or she understands, through an interpreter provided by the Office.

Lice koje traži azil može obezbijediti prevodioca.

An asylum seeker may engage his or her own interpreter.

Dokazi priloženi uz zahtjev za dobijanje azila pisani na jeziku i pismu koji nije u službenoj upotrebi obavezno se prevode, ako su od značaja za donošenje odluke po zahtjevu.

Evidence accompanying an asylum application written in a language and script not in official use must be translated if relevant to reaching a decision on the application.

Isključenje javnosti

Exclusion of the Public

Član 34

Article 34

U postupku po zahtjevu za dobijanje azila isključena je javnost.

The public shall be excluded from the asylum procedure.

Zakonski zastupnik, punomoćnik ili staratelj maloljetnog lica i punoljetnog poslovno nesposobnog lica, predstavnik Visokog komesarijata i prevodilac mogu prisustvovati davanju izjave lica koje traži azil.

A legal representative, a person with power of attorney, a guardian of a minor or person of age without legal capacity, a UNHCR representative, and an interpreter may be in attendance when the asylum seeker gives testimony.

O datumu, vremenu i mjestu davanja izjave lica koje traži azil, u pisanoj formi, obavještavaju se lica iz stava 2 ovog člana.

The persons referred to in paragraph 2 of this Article will be informed in writing of the date, time, and venue of the asylum seeker's testimony.

Davanje izjave

Testimony

Član 35

Article 35

Licu koje traži azil omogućava se da se, u što kraćem roku, nakon podnošenja zahtjeva za dobijanje azila, izjasni o činjenicama i okolnostima koje su od značaja za donošenje odluke. Ukoliko je potrebno, lice može izjavu dati više puta.

An asylum seeker shall be enabled, as soon as possible after the submission of the asylum application, to present the facts and circumstances of relevance to the decision-making. If need be, the person may give testimony multiple times.

Službeno lice koje vodi postupak obavezno je da licu koje traži azil omogući da, u svojoj izjavi, iscrpno predstavi, objasni i dokaže sve okolnosti i činjenice koje mogu biti od značaja za davanje azila, o čemu se obavještava u pozivu iz člana 34 stav 3 ovog zakona, kao i da vodi računa da nedostatak znanja i iskustva ne ugrozi prava lica koje traži azil.

The official conducting the procedure is obligated to enable the asylum seeker to extensively describe, explain and prove, in his or her testimony, all of the circumstances and facts that may be of relevance to the granting of asylum. The asylum seeker shall be informed of this in the summons referred to in Article 34, paragraph 3, of this Law. The official conducting the procedure shall also ensure that lack of knowledge and experience does not undermine the rights of the asylum seeker.

Lice koje traži azil obavezno je da saraduje sa službenim licem koje vodi postupak u toku čitavog postupka, da omogući pristup svim dokazima kojima raspolaže, podnese dokumenta i isprave i iznese i objasni činjenice i okolnosti koje su od značaja za donošenje odluke.

The asylum seeker is obligated to cooperate, throughout the procedure, with the official conducting the procedure, to enable access to all evidence in his or her possession, and to submit all documents and papers and present and explain all facts and circumstances of relevance to the decision-making.

Za vrijeme davanja izjave iz stava 1 ovog člana vodi se zapisnik, koji potpisuju lica koja su učestvovala u postupku.

During the testimony referred to in paragraph 1 of this Article, minutes shall be taken and signed by the persons who took part in the procedure.

Davanje izjave može biti audio snimljeno, o čemu lice koje traži azil mora biti obaviješteno.

The testimony may be recorded audiographically, provided that the asylum seeker is informed of this.

Razlozi za isključenje

Reasons for Exclusion

Član 36

Article 36

Status izbjeglice neće se priznati strancu za kojeg postoje ozbiljni razlozi da se smatra:

Refugee status shall not be recognized in the case of an alien with respect to whom there are reasonable grounds to believe:

- 1) da je počinio zločin protiv mira, ratni zločin ili zločin protiv čovječnosti, u smislu međunarodnih dokumenata koji sadrže odredbe o tim zločinima;
- 2) da je počinio težak zločin prema međunarodnom pravu izvan Crne Gore i prije dolaska u Crnu Goru;
- 3) da je kriv za postupak koji je u suprotnosti sa ciljevima i načelima Ujedinjenih nacija.

1) that he or she has committed a crime against peace, a war crime or a crime against humanity, within the meaning of the international instruments that contain provision on such crimes;

2) that he or she has committed a serious crime under international law, outside Montenegro and prior to arrival in Montenegro;

3) that he or she is guilty of acts contrary to the purposes and principles of the United Nations.

Status izbjeglice neće se priznati strancu koji uživa zaštitu ili pomoć nekog organa ili ustanove Ujedinjenih nacija, osim Visokog komesarijata.

Refugee status shall not be recognized in the case of an alien who enjoys the protection or assistance of an organ or agency of the United Nations other than UNHCR.

Odredba stava 2 ovog člana neće se primjenjivati kada zaštita ili pomoć prestane, iz bilo kojeg razloga, a status stranca nije konačno riješen, ukoliko postupak po zahtjevu za dobijanje azila nije okončan.

The provision of paragraph 2 of this Article shall not apply when protection or assistance has ceased, for any reason whatsoever, prior to the final settlement of the status of the alien, if the asylum procedure has not been completed.

Status izbjeglice neće se priznati strancu kojem su organi u Crnoj Gori priznali da ima prava i obaveze koje proističu iz posjedovanja crnogorskog državljanstva.

Refugee status shall not be recognized in the case of an alien who has been recognized by the authorities in Montenegro as having the rights and obligations arising from the possession of Montenegrin citizenship.

Dostavljanje pismena

Service of Documents

Član 37

Article 37

U postupku po zahtjevu za dobijanje azila pismena se dostavljaju lično licu koje traži azil, njegovom zakonskom zastupniku ili punomoćniku. Pismo se smatra uručenim kada ga, na zakonom propisan način, primi jedno od navedenih lica.

Documents in the asylum procedure shall be served on an asylum seeker in person, or on his or her legal representative or on a person to whom the asylum seeker has given power of attorney. A document shall be considered served when it has been received, in a legally prescribed manner, by one of the mentioned persons.

Pozivi i druga pismena dostavljaju se licu koje traži azil na jeziku i pismu koje je označilo da razumije.

The summons and other documents shall be served on the asylum seeker in a language and script that the asylum seeker has indicated he or she understands.

4. Odluke po zahtjevu za dobijanje azila

Vrste odluka

Član 38

Na osnovu izvedenih dokaza i utvrđenog činjeničnog stanja donosi se zaključak o obustavi postupka, rješenje kojim se usvaja zahtjev i priznaje status izbjeglice ili odobrava dodatna zaštita ili odbija zahtjev za dobijanje azila.

Odluke iz stava 1 ovog člana dostavljaju se u pisanoj formi.

Obustava postupka

Član 39

Zaključkom se postupak može obustaviti, ako lice koje traži azil:

- 1) odustane od zahtjeva za dobijanje azila, na zapisnik ili u pisanoj formi;
- 2) se ne odazove na poziv Kancelarije i pored ponovljenog poziva, bez prethodno datog opravdanog razloga;
- 3) ne obavijesti Kancelariju o promjeni mjesta boravka ili adrese stana ili na drugi način sprječava prijem poziva, bez opravdanog razloga;
- 4) odbije da saraduje prilikom utvrđivanja identiteta;
- 5) namjerno izbjegava da pruži podatke o činjenicama ili okolnostima ili da priloži dokaze koje posjeduje, a koji su od bitnog značaja za utvrđivanje osnovanosti zahtjeva;
- 6) napusti Centar ili drugi objekat za kolektivni smještaj bez prethodnog obavještenja i ne vrati se u roku od tri dana od samovoljnog odlaska, što se utvrđuje na osnovu službene evidencije;
- 7) napusti Crnu Goru za vrijeme trajanja postupka, bez odobrenja.

Žalba protiv zaključka iz stava 1 ovog člana može se izjaviti u roku od osam dana od dana uručjenja.

Odluku po žalbi iz stava 2 ovog člana Državna komisija donosi u roku od 30 dana od dana predaje žalbe.

4. Decisions on Asylum Applications

Types of Decisions

Article 38

On the basis of the offered evidence and established facts, a decision shall be reached to terminate the procedure, grant the application and recognize refugee status, accord subsidiary protection, or reject the application.

The decisions referred to in paragraph 1 of this Article shall be delivered in writing.

Termination of the Procedure

Article 39

A decision may be taken to terminate the procedure if the asylum seeker:

- 1) abandons his or her asylum claim, orally on the record or in writing;
- 2) fails to respond to the Office's summons as well as to the resent summons, without first giving a valid reason;
- 3) fails to inform the Office of a change in place of residence or address, or otherwise prevents service of the summons, without a valid reason;
- 4) refuses to cooperate in establishing his or her identity;
- 5) deliberately avoids providing information on the facts or circumstances, or submitting evidence in his or her possession, essential for establishing the merits of the application;
- 6) leaves the Center or other facility for collective accommodation without prior notice and fails to return within three days of his or her arbitrary departure, as established on the basis of official records;
- 7) departs Montenegro during the procedure, without authorization.

An appeal against the decision referred to in paragraph 1 of this Article may be filed within eight days from the day of its service.

The State Commission shall issue a decision on the appeal referred to in paragraph 2 of this Article within 30 days from the day on which the appeal is lodged.

Odbijanje zahtjeva za dobijanje azila

Član 40

Rješenjem se odbija zahtjev za dobijanje azila, ako se utvrdi da:

- 1) nema opravdanog straha od progona ili stvarnog rizika iz člana 2 st. 3 i 4 ovog zakona;
- 2) postoji razlog za isključenje iz člana 36 ovog zakona;
- 3) je zahtjev očigledno neosnovan, iz razloga propisanih u članu 41 ovog zakona;
- 4) lice koje traži azil posjeduje i državljanstvo treće države i nije tražilo njenu zaštitu, osim ako navede kategoričke razloge zbog kojih se nije moglo staviti pod zaštitu te države;
- 5) je progon iz člana 2 ovog zakona ograničen na jedan dio države čiji je državljanin, odnosno gdje lice bez državljanstva ima mjesto stalnog boravka, osim ako se na osnovu svih okolnosti ne može očekivati da lice dobije zaštitu u drugom dijelu te države.

Odluku po žalbi protiv rješenja kojim se odbija zahtjev za dobijanje azila maloljetnog lica bez pratnje i punoljetnog poslovno nesposobnog lica Državna komisija donosi u roku od 15 dana od dana predaje žalbe.

Očigledno neosnovan zahtjev za dobijanje azila

Član 41

Zahtjev za dobijanje azila je očigledno neosnovan, ako lice nema stvarnog osnova za zahtjev zbog straha od progona u državi porijekla ili ako zahtjev zasniiva na namjernoj prevari ili zloupotrebi postupka azila.

Smatra se da lice koje traži azil nema stvarnog osnova za zahtjev zbog straha od progona, ako:

- 1) zahtjev zasniiva na ekonomskim razlozima ili boljim uslovima života;
- 2) zahtjevu u potpunosti nedostaju podaci o tome da bi u državi porijekla bilo izloženo strahu od progona ili njegova izjava ne sadrži okolnosti ili detalje o ličnom progону;
- 3) zahtjevu očigledno nedostaje vjerodostojnost, a izjava lica je nedosljedna, kontradiktorna ili realno

Rejection of Asylum Applications

Article 40

An asylum application shall be rejected if it has been established that:

- 1) there is no well-founded fear of persecution or real risk under Article 2, paragraphs 3 and 4, of this Law;
- 2) there is a reason for exclusion under Article 36 of this Law;
- 3) the application is manifestly unfounded, based on the reasons prescribed in Article 41 of this Law;
- 4) the asylum seeker holds the citizenship of a third country and has not sought its protection, unless he or she cites compelling reasons for not being able to avail of the protection of that state;
- 5) the persecution referred to in Article 2 of this Law is limited to a part of the state of which he or she is a citizen, or in which a stateless person has habitual residence, unless, based on all the circumstances, it cannot be expected that the person will receive protection in another part of that state.

The State Commission shall issue a decision within 15 days of the lodging of on an appeal against the rejection of an asylum application of an unaccompanied minor or a person of age without legal capacity.

Manifestly Unfounded Asylum Applications

Article 41

An asylum application is manifestly unfounded if the person has no valid grounds for the application due to fear of persecution in the country of origin, or if the application is based on deliberate fraud or abuse of the asylum procedure.

An asylum seeker shall be considered to have no valid grounds for the application due to fear of persecution if:

- 1) the application is based on economic reasons or better living conditions;
- 2) the application is entirely lacking in information that there would be exposure to fear of persecution in the country of origin, or the asylum seeker's statement does not contain any circumstances or details of personal persecution;
- 3) the claim obviously lacks credibility, and the person's statement is inconsistent, contradictory or

nemoguća;

4) se, zbog opštih političkih okolnosti, pravnog stanja ili sprovođenja zakona u državi porijekla ili trećoj državi, generalno može smatrati da ne može postojati strah od progona, osim ako dokaže da ta država nije bezbjedna za njega;

5) je licu ranije zabranjen ulazak u Crnu Goru, u skladu sa zakonom, a razlozi zbog kojih je došlo do zabrane nijesu se promijenili.

Smatra se da lice koje traži azil zahtjev zasniva na namjernoj prevari ili zloupotrebi postupka, ako:

1) zahtjev zasniva na lažnom identitetu ili falsifikovanim dokumentima, osim ako za to navede opravdane razloge;

2) namjerno, nakon podnošenja zahtjeva za dobijanje azila, daje neistinite izjave, usmeno ili u pisanoj formi, a od bitnog su značaja za priznavanje statusa izbjeglice;

3) namjerno uništi, ošteti, krije isprave ili dokaze bitne za zahtjev ili se poslužilo drugom putnom ispravom, drugim dokumentom ili kartom, u namjeri da stvori lažni identitet ili da oteža razmatranje zahtjeva;

4) namjerno prikriva da je već podnijelo zahtjev za dobijanje azila u drugoj državi, posebno ako se koristilo lažnim identitetom;

5) podnosi zahtjev s ciljem da izbjegne protjerivanje iz Crne Gore, a ranije je imalo dovoljno mogućnosti da podnese zahtjev za dobijanje azila;

6) očigledno propusti da postupi prema bitnim obavezama koje se odnose na postupak azila propisanim ovim zakonom;

7) je prikrilo da je njegov zahtjev za dobijanje azila u Crnoj Gori ili drugoj državi nakon razmatranja u postupku koji je uključivao adekvatne proceduralne garancije utvrđene međunarodnim dokumentima odbijen, a okolnosti na kojima zasniva zahtjev nijesu se promijenile;

8) ima odobren azil u drugoj državi i nastavlja da koristi zaštitu te države.

realistically impossible;

4) it may be generally considered that no fear of persecution can exist due to the overall political circumstances, legal situation or enforcement of laws in the country of origin or third country, unless the asylum seeker can prove that this state is not safe for him or her;

5) the person was earlier banned from entering Montenegro, in keeping with the law, and the reasons for which the ban was imposed have not changed.

An asylum seeker's application shall be considered to be based on deliberate fraud or abuse of the procedure if:

1) the application is based on a false identity or falsified documents, unless the asylum seeker provides valid reasons for this;

2) the asylum seeker, after the submission of the asylum application, deliberately gives untrue statements, orally or in writing, which are essential for refugee status recognition;

3) the asylum seeker deliberately destroys, damages, or hides documents or evidence essential to the application, or has used another travel document, instrument or ticket with the intention of creating a false identity or complicating the examination of the application;

4) the asylum seeker deliberately conceals that he or she has already submitted an asylum application in another state, particularly if he or she has used a false identity;

5) he or she files the application with the intent to avoid expulsion from Montenegro, even though there were sufficient opportunities to file the asylum application earlier;

6) the asylum seeker has manifestly failed to comply with essential obligations related to the asylum procedure prescribed by this Law;

7) the asylum seeker has concealed that his or her application for asylum in Montenegro or another state, after examination in a procedure that incorporated adequate procedural guarantees set out in international instruments, was rejected, and the circumstances on which the application was based have not changed;

8) the asylum seeker has asylum permission in another state and continues to enjoy the protection of that state.

U slučajevima iz st. 2 i 3 ovog člana donosi se rješenje u roku od 15 dana od dana podnošenja zahtjeva.

Protiv rješenja iz stava 4 ovog člana žalba se izjavljuje u roku od osam dana od dana prijema rješenja.

Odluku po žalbi iz stava 5 ovog člana Državna komisija donosi u roku od 15 dana od dana predaje žalbe.

Rješenje

Član 42

Rješenje kojim se usvaja zahtjev i priznaje status izbjeglice ili odobrava dodatna zaštita sadrži prava propisana ovim zakonom.

Rješenje kojim se obija zahtjev za dobijanje azila sadrži razloge sa kojih zahtjev za dobijanje azila nije usvojen, uputstvo o pravu na žalbu i rok u kojem je lice obavezno da napusti Crnu Goru.

Rok iz stava 2 ovog člana ne može biti kraći od 15 dana, odnosno tri dana od dana konačnosti rješenja, ako je rješenje donijeto sa razloga iz člana 41 ovog zakona.

Vraćanje i protjerivanje

Član 43

Lice po čijem je zahtjevu za dobijanje azila postupak obustavljen obavezno je da napusti Crnu Goru u roku od 15 dana od dana konačnosti zaključka, a lice kojem je zahtjev za dobijanje azila odbijen, u roku određenom rješenjem o odbijanju zahtjeva.

Ako lice po čijem je zahtjevu postupak obustavljen ili zahtjev za dobijanje azila odbijen ne napusti Crnu Goru u roku iz stava 1 ovog člana, odnosno u roku određenom rješenjem, njegovo vraćanje ili protjerivanje sprovede se u skladu sa zakonom kojim se uređuje boravak stranaca.

In the cases referred to in paragraphs 2 and 3 of this Article, the decision shall be issued within 15 days from the day of the submission of the application.

An appeal may be lodged against the decision referred to in paragraph 4 of this Article within eight days from the day of the receipt of the decision.

The State Commission shall issue a decision on an appeal under paragraph 5 of this Article within 15 days from the day of the lodging of the appeal.

Decision

Article 42

The decision through which an application is granted and refugee status recognized or subsidiary protection accorded shall contain the rights prescribed by this Law.

The decision through which an asylum application is rejected shall contain the reasons for which the asylum application was not granted, instructions on the right to appeal and the time limit in which the person is obligated to depart Montenegro.

The time limit referred to in paragraph 2 of this Article may not be shorter than 15 days, or three days from the day on which the decision becomes final if the decision has been issued for the reasons referred to in Article 41 of this Law.

Return and Expulsion

Article 43

A person with respect to whose asylum application the procedure is terminated is obligated to depart Montenegro within 15 days from the day on which the decision becomes final, and a person whose asylum application is rejected is obligated to depart within the time limit stipulated in the decision rejecting the application.

If a person with respect to whose application the procedure is terminated, or whose asylum application is rejected, fails to depart Montenegro within the time limit specified in paragraph 1 of this Article, or within the time limit stipulated in the decision, his or her return or expulsion shall be carried out in accordance with the law regulating the residence of aliens.

V. LICA KOJIMA JE PRIZNAT STATUS IZBJEGLICE

1. Prava lica kojem je priznat status izbjeglice

Član 44

Lice kojem je priznat status izbjeglice ima pravo na:

- 1) boravak;
- 2) putnu ispravu i ličnu kartu kojom potvrđuje identitet, pravni status, pravo na boravak i druga prava propisana ovim zakonom;
- 3) slobodu kretanja i izbor mjesta boravka;
- 4) slobodan pristup sudovima i pravnoj pomoći;
- 5) slobodu vjeroispovijesti;
- 6) besplatno osnovno i srednje obrazovanje u školama čiji je osnivač država, a više i visoko obrazovanje u javnim ustanovama čiji je osnivač država, pod uslovima propisanim za strance;
- 7) rad;
- 8) socijalnu zaštitu;
- 9) spajanje porodice;
- 10) smještaj, ukoliko je potreban, a najduže šest mjeseci od dana priznavanja statusa izbjeglice;
- 11) zdravstvenu zaštitu, do sticanja svojstva osiguranog lica, u skladu sa posebnim propisom;
- 12) sticanje pokretne i nepokretne imovine, pod uslovima određenim zakonom, uz oslobađanje od reciprociteta poslije tri godine boravka u Crnoj Gori;
- 13) pomoć pri uključivanju u društvo.

Socijalna zaštita

Član 45

Lice kojem je priznat status izbjeglice ostvaruje pravo na socijalnu zaštitu saglasno posebnom propisu o socijalnoj zaštiti, a najduže jednu godinu od konačnosti rješenja kojim je priznat status izbjeglice.

V. PERSONS RECOGNIZED AS REFUGEES

1. Rights of Persons Recognized as Refugees

Article 44

A person recognized as a refugee shall have the right to:

- 1) residence;
- 2) a travel document and an identity card confirming his or her identity, the right to residence and other rights prescribed by this Law;
- 3) freedom of movement and choice of place of residence;
- 4) unimpeded access to courts of law and legal aid;
- 5) freedom of religion;
- 6) free primary and secondary education in public schools, and post-secondary and higher education in the public institutions founded by the state, on the terms prescribed for aliens;
- 7) work;
- 8) social welfare;
- 9) family reunification;
- 10) accommodation, to the extent required, but not for a period longer than six months from the day on which refugee status is recognized;
- 11) health care, pending the acquisition of the status of an insured person, in accordance with a separate regulation;
- 12) acquisition of movable and immovable property, on the terms set out by law, with exemption from reciprocity after three years' residence in Montenegro;
- 13) assistance with inclusion in society.

Social Welfare

Article 45

A person recognized as a refugee shall exercise the right to social welfare in accordance with separate regulations on social welfare, but for at most one year from the day on which the decision granting refugee status becomes final.

Ako lice kojem je priznat status izbjeglice odbije da prihvati ponuđeno zaposlenje, prestaje mu pravo na socijalnu zaštitu.

Pravo na rad

Član 46

Pravo na rad lice kojem je priznat status izbjeglice ostvaruje pod istim uslovima koji su propisani za strance sa odobrenim stalnim boravkom.

Mjera ograničenja rada stranaca neće se primjenjivati na lice kome je priznat status izbjeglice, ako ispunjava jedan od sledećih uslova:

- 1) boravi najmanje tri godine u Crnoj Gori;
- 2) je u braku sa crnogorskim državljaninom;
- 3) jedno njegovo dijete ima crnogorsko državljanstvo.

Pravo na invalidsko osiguranje, zdravstvenu zaštitu, penzijsko osiguranje i druga prava iz radnog odnosa lice kojem je priznat status izbjeglice ostvaruje kao i crnogorski državljanin.

Spajanje porodice

Član 47

Lice kojem je priznat status izbjeglice ima pravo na spajanje sa članovima porodice.

Članovima porodice, u smislu stava 1 ovog člana, smatraju se braćni drug, ako je u zakoniti brak stupio prije dolaska u Crnu Goru, maloljetna djeca i staratelj maloljetnog lica.

Članovima porodice iz stava 2 ovog člana, na njihov zahtjev, priznaće se status izbjeglice.

Izuzetno od stava 3 ovog člana, pravo na spajanje porodice neće se odobriti, ako za člana porodice postoje razlozi za isključenje iz člana 36 ovog zakona.

Zahtjev za spajanje porodice može se podnijeti u diplomatsko-konzularnom predstavništvu o kome rješava organ iz člana 19 ovog zakona.

U opravdanim slučajevima, može se odobriti spajanje i sa drugim članovima porodice.

If a person recognized as a refugee declines to accept an offer of employment, his or her right to social welfare shall cease.

Right to Work

Article 46

A person recognized as a refugee shall exercise the right to work on the same terms as those prescribed for aliens with authorized habitual residence.

A measure restricting the employment of aliens shall not apply to a person recognized as a refugee, provided that he or she fulfills one of the following conditions:

- 1) he or she resides for a minimum of three years in Montenegro;
- 2) he or she is married to a Montenegrin citizen;
- 3) one of his or her children has Montenegrin citizenship.

A person recognized as a refugee shall exercise the rights to disability insurance, health care, pension insurance and other rights arising from employment relations in the same manner as a Montenegrin citizen.

Family Reunification

Article 47

A person recognized as a refugee has the right to reunification with family members.

A family member, within the meaning of paragraph 1 of this Article, is considered a spouse, if legal marriage was entered into prior to arrival in Montenegro, a minor child, and the guardian of a minor child.

At their request, refugee status shall be recognized to the family members referred to in paragraph 2 of this Article.

Notwithstanding paragraph 3 of this Article, the right to family reunification shall not be granted if there are reasons for exclusion of the family member under Article 36 of this Law.

The family reunification request may be submitted to a diplomatic-consular mission, to be decided upon by the body referred to in Article 19 of this Law.

In justifiable cases, reunification with other family members may also be granted.

Uključivanje u društvo

Član 48

Uslovi da se lice kojem je priznat status izbjeglice uključi u društveni, ekonomski i kulturni život obezbjeđuju se, zavisno od ekonomskih i drugih mogućnosti, organizovanjem kurseva jezika, pružanjem obavještenja o državnom uređenju, istoriji i kulturi, organizovanjem seminara i drugih oblika osposobljavanja.

Integracija i naturalizacija

Član 49

U okviru ekonomskih i drugih mogućnosti Crne Gore nastojaće se u najvećoj mogućoj mjeri, da se:

- 1) omogući integracija i naturalizacija izbjeglica;
- 2) takse i drugi troškovi u postupku ostvarivanja prava i naturalizacije odrede u visini koja ne predstavlja smetnju za podnošenje zahtjeva i ostvarivanje prava.

2. Obaveze lica kome je priznat status izbjeglice

Član 50

Lice kojem je priznat status izbjeglice obavezno je da:

- 1) prihvati ponuđeni smještaj;
- 2) prijavi promjenu mjesta boravka i adrese stana Kancelariji u roku od osam dana od dana nastale promjene;
- 3) obavijesti Kancelariju o svim promjenama koje su od značaja za ostvarivanje prava iz člana 44 ovog zakona.

Ako lice iz stava 1 tačka 1 ovog člana odbije ponuđeni smještaj, prestaje mu pravo na smještaj.

3. Prestanak i ukidanje statusa izbjeglice

Prestanak statusa izbjeglice

Član 51

Status izbjeglice prestaje licu, ako:

- 1) dobrovoljno ponovo uživa zaštitu države čije

Inclusion in Society

Article 48

Depending on economic and other capabilities, conditions shall be created for the inclusion of persons recognized as refugees in social, economic and cultural life, through the organization of language courses, and provision of information on state regulation, history and culture, and through the organization of seminars and other forms of training.

Integration and naturalization

Article 49

Within the framework of Montenegro's economic and other capabilities, efforts shall be invested to the greatest possible extent to:

- 1) enable the integration and naturalization of refugees;
- 2) set fees and other costs in proceedings for the exercise of rights and for naturalization at a level that does not constitute an obstacle to the submission of applications and exercise of rights.

2. Obligations of Persons Recognized as Refugees

Article 50

A person recognized as a refugee is obligated to:

- 1) accept offered accommodation;
- 2) report a change in place of residence and apartment address to the Office within eight days from the day on which the change occurs;
- 3) inform the Office of all the changes which are relevant to the exercise of the rights referred to in Article 44 of this Law.

If a person referred to in item 1, paragraph 1, of this Article declines offered accommodation, his or her right to accommodation shall cease.

3. Cessation and Revocation of Refugee Status

Cessation of Refugee Status

Article 51

A person's refugee status shall cease if:

- 1) he or she voluntarily re-avails himself or herself

državljanstvo ima;

2) nakon što je izgubilo državljanstvo, to državljanstvo ponovno dobrovoljno stekne;

3) stekne novo državljanstvo i uživa zaštitu države novog državljanstva;

4) se dobrovoljno vratilo radi nastanjenja u državu koju je napustilo ili izvan koje je ostalo iz straha od progona;

5) više ne može da odbija zaštitu države čiji je državljanin, jer su prestale postojati okolnosti zbog kojih je priznat status izbjeglice;

6) se lice bez državljanstva može vratiti u državu u kojoj je imalo mjesto stalnog boravka, jer su prestale postojati okolnosti zbog kojih je priznat status izbjeglice.

Odredbe stava 1 tač. 5 i 6 ovog člana neće se primjenjivati na lice koje može, da bi odbijalo zaštitu države čiji je državljanin i da se vrati u državu u kojoj je imalo mjesto stalnog boravka, da navede kategorične razloge o ranijim progonima.

Ukidanje statusa izbjeglice

Član 52

Status izbjeglice ukida se licu, ako:

1) je trebalo biti isključeno ili su nastupili razlozi za isključenje iz člana 36 ovog zakona;

2) je pogrešno prikazivanje činjenica ili okolnosti od strane tog lica, uključujući upotrebu falsifikovanih dokumenata, bilo odlučujuće za priznavanje statusa izbjeglice;

3) ima i drugo efektivno državljanstvo;

4) se iselilo iz Crne Gore uz izjavu o preseljenju u pisanoj formi ili boravi u drugoj državi duže od 60 dana, koju je izabralo kao mjesto stalnog boravka i o tome nije obavijestilo Kancelariju.

of the protection of the country of citizenship;

2) after having lost his or her citizenship, he or she voluntarily reacquires that citizenship;

3) he or she acquires a new citizenship, and enjoys the protection of the new country of citizenship;

4) he or she has voluntarily reestablished residence in the state that he or she had abandoned or outside of which he or she had remained owing to fear of persecution;

5) he or she can no longer refuse to avail himself or herself of the protection of the country of his or her citizenship, because the circumstances due to which he or she was recognized as a refugee have ceased to exist;

6) being a stateless person, he or she is able to return to the state in which he or she had a place of habitual residence, because the circumstances due to which he or she was recognized as a refugee have ceased to exist.

The provisions of paragraph 1, items 5 and 6, of this Article, shall not apply to a person who is able to cite compelling reasons arising from previous persecution for refusing to avail himself or herself of the protection of the country of his or her citizenship and return to the country where he or she had permanent residence.

Revocation of Refugee Status

Article 52

A person's refugee status shall be revoked if:

1) the person should have been excluded or reasons have emerged for exclusion under Article 36 of this Law;

2) the person's misrepresentation of facts or circumstances, including the use of forged documents, was decisive in the recognition of refugee status;

3) the person has another effective citizenship;

4) the person has emigrated from Montenegro, providing a written statement to this effect, or resides for a period longer than 60 days in another state that he or she has chosen as his or her place of habitual residence, without informing the Office of this.

VI. DODATNA ZAŠTITA

1. Odobranje u vrijeme trajanja dodatne zaštite

Odobranje dodatne zaštite

Član 53

Dodatna zaštita odobrava se licu kojem nije priznat status izbjeglice ali za koje postoje ozbiljni razlozi da se vjeruje da bi se povratkom u državu porijekla ili drugu državu izložilo stvarnim rizicima iz člana 2 stav 4 ovog zakona.

Dodatna zaštita se neće odobriti licu, ako:

- 1) ne postoje ozbiljni razlozi iz stava 1 ovog člana;
- 2) postoje razlozi za isključenje iz člana 36 ovog zakona;
- 3) postoje ozbiljni razlozi da se smatra da njegov boravak predstavlja opasnost za zajednicu ili za bezbjednost Crne Gore;
- 4) je prije dolaska u Crnu Goru počinilo jedno ili više krivičnih djela, pored slučajeva predviđenih članom 36 stav 1 ovog zakona, za koja je, da su izvršena u Crnoj Gori, predviđena kazna zatvora i ako je napustilo državu porijekla isključivo sa namjerom da izbjegne sankcije za navedena krivična djela.

Vrijeme trajanja dodatne zaštite

Član 54

Dodatna zaštita traje jednu godinu.

Vrijeme trajanja dodatne zaštite može se produžavati za šest mjeseci dok postoje razlozi iz člana 53 stav 1 ovog zakona.

2. Prava i obaveze lica kojem je odobrena dodatna zaštita

Član 55

Lice kojem je odobrena dodatna zaštita ima prava na:

VI. SUBSIDIARY PROTECTION

1. Authorization and Duration of Subsidiary Protection

Authorization of Subsidiary Protection

Article 53

Subsidiary protection shall be accorded to a person to whom refugee status was not recognized, but with respect to whom there are serious reasons to believe that he or she would be exposed to genuine risks under Article 2, paragraph 4, of this Law upon return to his or her country of origin or another state.

Subsidiary protection shall not be accorded to a person if:

- 1) the serious reasons under paragraph 1 of this Article do not exist;
- 2) there are reasons for exclusion referred to in Article 36 of this Law;
- 3) there are serious reasons to believe that his or her residence constitutes a threat to the community or to the security of Montenegro;
- 4) before arriving in Montenegro, he or she committed, apart from the cases envisioned under Article 36, paragraph 1, of this Law, one or more criminal offences, for which a prison sentence would have been envisaged had they been committed in Montenegro, and he or she has left the country of origin solely with the intention of avoiding punishment for the above criminal offences.

Duration of Subsidiary Protection

Article 54

Subsidiary protection shall last one year.

The duration of subsidiary protection may be extended for six-month periods as long as the reasons referred to in Article 53, paragraph 1, of this Law exist.

2. Rights and Obligations of Persons Accorded Subsidiary Protection

Article 55

A person accorded subsidiary protection shall have the right to:

1) boravak;	1) residence;
2) slobodu kretanja i izbor mjesta boravka;	2) freedom of movement and choice of place of residence;
3) identifikacionu ispravu koja potvrđuje njegov identitet, pravni status, pravo na boravak i druga prava utvrđena ovim zakonom;	3) an identification document confirming his or her identity, legal status, right to residence and other rights defined by this Law;
4) putni list za stranca, saglasno propisima o boravku stranaca, radi putovanja u inostranstvo;	4) an aliens' travel document, in accordance with the regulations on the residence of aliens, for the purpose of traveling abroad;
5) slobodan pristup sudovima i pravnoj pomoći;	5) unimpeded access to courts of law and legal aid;
6) slobodu vjeroispovijesti;	6) freedom of religion;
7) besplatno osnovno i srednje obrazovanje u školama čiji je osnivač država;	7) free primary and secondary education in public schools;
8) rad saglasno članu 46 ovog zakona;	8) work pursuant to Article 46 of this Law;
9) socijalnu zaštitu saglasno članu 45 ovog zakona;	9) social protection pursuant to Article 45 of this Law;
10) osnovni smještaj, ukoliko je potreban, do obezbjeđenja sredstava za egzistenciju, a najduže šest mjeseci od konačnosti rješenja o odobravanju dodatne zaštite;	10) basic accommodation, if required, until means for existence have been secured, and for at most six months from the day when the decision on the authorization of subsidiary protection becomes final;
11) besplatnu hitnu medicinsku pomoć;	11) free emergency medical treatment;
12) pomoć pri uključivanju u društvo;	12) assistance with inclusion in society;
13) spajanje porodice.	13) family reunification.
Lice kojem je odobrena dodatna zaštita ima ostala prava i obaveze kao stranac kojem je odobren boravak na određeno vrijeme u Crnoj Gori.	A person accorded subsidiary protection has other rights and obligations as are accorded an alien granted residence in Montenegro for a specified period of time.

3. Prestanak i ukidanje dodatne zaštite

Član 56

Dodatna zaštita prestaje kada su okolnosti iz člana 2 stav 4 ovog zakona prestale da postoje ili su se u tolikoj mjeri promijenile da zaštita više nije potrebna.

Dodatna zaštita se ukida ili se njeno trajanje neće produžiti licu, ako:

1) je lice trebalo biti isključeno ili su nastupili razlozi za isključenje iz člana 36 ovog zakona;

3. Cessation and Revocation of Subsidiary Protection

Article 56

Subsidiary protection shall cease when the circumstances referred to in Article 2, paragraph 4, of this Law, have ceased to exist or have changed to such an extent that protection is no longer needed.

Subsidiary protection shall be revoked, or its duration not be extended, if:

1) the person should have been excluded or reasons have emerged for exclusion under Article 36 of this Law;

2) je pogrešno prikazivanje činjenica ili okolnosti od strane tog lica, uključujući upotrebu falsifikovanih dokumenata, bilo odlučujuće za odobravanje zaštite;

3) je trajno napustilo Crnu Goru;

4) je zaštita odobrena na osnovu drugog zakona ili međunarodnog sporazuma;

5) uživa međunarodnu zaštitu ili ima regulisan boravak u trećoj državi;

6) stekne državljanstvo druge države.

VII. PRIVREMENA ZAŠTITA

Odobranje privremene zaštite

Član 57

Privremena zaštita odobrava se licima kojima je zaštita potrebna saglasno članu 2 stav 5 ovog zakona, pod uslovom da su imala:

1) stalni boravak u državi porijekla i da su direktno došli u Crnu Goru;

2) zakoniti boravak u Crnoj Gori, a po isteku tog boravka, privremeno im je onemogućen povratak u državu porijekla.

Vlada donosi odluku o potrebi odobravanja privremene zaštite i broju lica kojima se odobrava zaštita.

Vrijeme trajanja privremene zaštite

Član 58

Privremena zaštita traje jednu godinu.

Vrijeme trajanja privremene zaštite može se produžiti za šest mjeseci, a najduže za jednu godinu.

Vlada periodično preispituje postojanje okolnosti iz člana 57 ovog zakona i odlučuje o produženju privremene zaštite.

Pojedinačne odluke koje se odnose na privremenu zaštitu donose se u skladu sa odlukom Vlade i principima propisanim ovim zakonom, izvan propisanog postupka po pojedinačnom zahtjevu za dobijanje azila.

2) the person's misrepresentation of facts or circumstances, including the use of forged documents, was decisive in the recognition of refugee status;

3) the person has permanently departed Montenegro;

4) protection has been accorded on the strength of another law or international agreement;

5) the person enjoys international protection or has lawful residence in a third country;

6) the person has acquired the citizenship of another state.

VII. TEMPORARY PROTECTION

Authorization of Temporary Protection

Article 57

Temporary protection shall be accorded to persons in need of protection pursuant to Article 2, paragraph 5, of this Law, provided that they had:

1) habitual residence in the country of origin and they directly entered Montenegro;

2) lawful residence in Montenegro and are temporarily prevented from returning to the country of origin upon the expiry of such residence.

The Government shall issue a decision on the need to accord temporary protection and the number of persons who are to be accorded protection.

Duration of Temporary Protection

Article 58

Temporary protection shall last one year.

The duration of temporary protection may be extended for six-months, and at most one year.

The Government shall periodically re-examine the existence of the circumstances under Article 57 of this Law and decide on the extension of temporary protection.

Individual decisions related to temporary protection shall be adopted in conformity with the Government's decision and the principles enshrined in this Law, outside the prescribed procedure for individual asylum applications.

Uskraćivanje privremene zaštite

Član 59

Privremena zaštita neće se odobriti licu, ako:

- 1) ne postoje razlozi iz člana 57 stav 1 ovog zakona;
- 2) postoje razlozi za isključenje iz člana 36 ovog zakona;
- 3) postoje ozbiljni razlozi da se smatra da njegov boravak predstavlja opasnost za zajednicu ili za bezbjednost Crne Gore;
- 4) je počinilo krivično djelo u Crnoj Gori za koje je izrečena kazna zatvora najmanje pet godina;
- 5) ima priznat status izbjeglice ili odobren boravak po odredbama zakona kojim se uređuje boravak stranaca;
- 6) uživa međunarodnu zaštitu ili ima državljanstvo ili odobren boravak u trećoj državi;
- 7) je privremena zaštita već odobrena ili je njegovom voljom prestala.

Prava lica kojima je odobrena privremena zaštita

Član 60

Lice kojem je odobrena privremena zaštita ima pravo na:

- 1) boravak;
- 2) slobodu kretanja;
- 3) identifikacionu ispravu koja potvrđuje njegov identitet, pravni status, pravo na boravak i druga prava utvrđena ovim zakonom;
- 4) putni list za stranca, saglasno propisima o boravku stranaca, radi putovanja u inostranstvo;
- 5) osnovne uslove za život u organizovanom smještaju;
- 6) rad u objektima organizovanog smještaja;
- 7) besplatnu hitnu medicinsku pomoć;

Denial of Temporary Protection

Article 59

A person shall not be accorded temporary protection if:

- 1) the reasons under Article 57, paragraph 1, of this Law do not exist;
- 2) there are reasons for exclusion under Article 36 of this Law;
- 3) there are serious reasons to believe that his or her residence constitutes a threat to the community or to the security of Montenegro;
- 4) he or she has committed a criminal offence in Montenegro for which a prison sentence of at least five years has been imposed;
- 5) he or she is a recognized refugee or has been accorded residence under the provisions of the law regulating the residence of aliens;
- 6) he or she enjoys international protection or has the citizenship of, or authorized residence in, a third country;
- 7) temporary protection has already been authorized or has ceased at his or her request.

Rights of Persons Accorded Temporary Protection

Article 60

A person accorded temporary protection shall have the right to:

- 1) residence;
- 2) freedom of movement;
- 3) an identification document confirming his or her identity, legal status, right to residence and other rights prescribed by this Law;
- 4) an aliens' travel document, in accordance with the regulations on the residence of aliens, for the purpose of traveling abroad;
- 5) basic living conditions in organized accommodation;
- 6) work in the facilities for organized accommodation;
- 7) free emergency medical treatment;

8) besplatno osnovno i srednje obrazovanje u školama čiji je osnivač država;

9) slobodan pristup sudovima i pravnoj pomoći;

10) slobodu vjeroispovjesti;

11) humanitarnu pomoć.

Boravak iz stava 1 tačka 1 ovog člana ne smatra se boravkom u smislu zakona kojima se uređuju boravak stranaca i državljanstvo.

Izuzetno od stava 1 ovog člana, licu kojem je odobrena privremena zaštita može se odobriti spajanje sa članovima porodice, ako je to jedino moguće ostvariti na teritoriji Crne Gore.

Pravo na spajanje porodice iz stava 3 ovog člana ima maloljetno lice koje nije zasnovalo svoju porodicu i bračni drug lica kome je odobrena privremena zaštita. Članovima porodice odobrava se privremena zaštita, na njihov zahtjev.

Prestanak privremene zaštite

Član 61

Privremena zaštita prestaje:

1) prestankom postojanja razloga zbog kojih je odobrena privremena zaštita iz člana 57 stav 1 ovog zakona;

2) protekom vremena za koje je odobrena;

3) nastupanjem razloga za isključenje iz člana 36 ovog zakona;

4) kada lice trajno napusti Crnu Goru;

5) kada je licu odobren drugi oblik zaštite na osnovu zakona ili međunarodnog sporazuma;

6) dobijanjem međunarodne zaštite ili odobravanjem boravaka u trećoj državi;

7) sticanjem državljanstva druge države.

Podnošenje zahtjeva za dobijanje azila

Član 62

Lice kojem je odobrena privremena zaštita ima

8) free primary and secondary education in public schools;

9) unimpeded access to courts of law and legal aid;

10) freedom of religion;

11) humanitarian assistance.

The residence referred to in paragraph 1, item 1, of this Article, shall not be considered to be residence within the meaning of the laws regulating the residence of aliens and citizenship.

As an exception to paragraph 1 of this Article, a person accorded temporary protection may be granted reunification with family members, if this is possible only on the territory of Montenegro.

The right to family reunification referred to in paragraph 3 of this Article shall pertain to minors who have not started their own families and to spouses of persons accorded temporary protection. Family members shall be accorded temporary protection at their request.

Cessation of Temporary Protection

Article 61

Temporary protection shall cease:

1) upon the cessation of the existence of the reasons for which temporary protection is accorded under Article 57, paragraph 1, of this Law;

2) upon the expiry of the period for which it is accorded;

3) if reasons for exclusion under Article 36 of this Law arise;

4) when the person has permanently departed Montenegro;

5) when the person has been accorded another form of protection on the basis of law or an international agreement;

6) if international protection or authorized residence is given in a third country;

7) if citizenship of another state is acquired.

Filing of an Asylum Application

Article 62

A person accorded temporary protection has the

pravo da, za vrijeme ili po proteku vremena trajanja privremene zaštite, podnese zahtjev za dobijanje azila, ali ne može koristiti prava za lica iz člana 29 ovog zakona, dok traje privremena zaštita.

Ako postupak po zahtjevu za dobijanje azila nije okončan prije prestanka privremene zaštite, isti će se okončati nakon njenog prestanka.

Lice kojem je odobrena privremena zaštita, čiji je zahtjev za dobijanje azila odbijen, uživa privremenu zaštitu za vrijeme za koje je odobrena.

VIII. OSTVARIVANJE PRAVA

Mjesto i vrijeme ostvarivanja prava

Član 63

Prava iz čl. 29, 44, 55 i 60 ovog zakona mogu se ostvarivati samo na teritoriji Crne Gore i do konačne odluke o podnijetom zahtjevu za dobijanje azila, prestanku ili ukidanju statusa izbjeglice i dodatne zaštite i prestanku privremene zaštite.

Nakon konačne odluke o odbijanju zahtjeva za dobijanje azila, prestanku ili ukidanju statusa izbjeglice i dodatne zaštite, prestanku privremene zaštite i prestanku prava po ovom osnovu, na lice koje ostane da boravi u Crnoj Gori primjenjuju se odredbe zakona kojim se uređuje boravak stranaca.

Način ostvarivanja prava

Član 64

Sredstva za ostvarivanje prava iz čl. 29, 44, 55 i 60 ovog zakona obezbjeđuju se u skladu sa postojećim ekonomskim, socijalnim i drugim mogućnostima.

Ministarstva nadležna za poslove socijalne zaštite, obrazovanja i zdravstva propisuju iz svoje nadležnosti način ostvarivanja prava iz čl. 29, 44, 55 i 60 ovog zakona.

IX. ISPRAVE

Izdavanje isprava

Član 65

Isprave za dokazivanje identiteta, pravnog statusa i prava i isprave za putovanje u inostranstvo, propisane ovim zakonom, izdaje organ iz člana 19

right to file an asylum application during or after the period of temporary protection, but may not benefit from the rights under Article 29 of this Law during the period of temporary protection.

If the asylum procedure has not been completed prior to the cessation of temporary protection, it shall be completed after its cessation.

A person accorded temporary protection, whose asylum application has been rejected, shall enjoy temporary protection for the period for which it has been accorded.

VIII. EXERCISE OF RIGHTS

Place and Time of Exercise of Rights

Article 63

The rights referred to in Articles 29, 44, 55 and 60 of this Law may be exercised only on the territory of Montenegro and pending a final decision on the asylum application, cessation or revocation of refugee status and subsidiary protection and cessation of temporary protection.

After a final decision on the rejection of an asylum application, cessation or revocation of refugee status and subsidiary protection, and on cessation of temporary protection, and after the termination of the rights referred to in paragraph 1 of this Article, the provisions of the law regulating the residence of aliens shall be applied to a person who continues to reside in Montenegro.

Manner of Exercise of Rights

Article 64

Resources for the exercise of the rights referred to in Articles 29, 44, 55 and 60 of this Law shall be allocated in line with existing economic, social and other capabilities.

The Ministries responsible for the affairs of social welfare, education and health shall prescribe, within their competencies, the manner of the exercise of the rights referred to in Articles 29, 44, 55 and 60 of this Law.

IX. DOCUMENTS

Issuance of Documents

Article 65

The body referred to in Article 19 of this Law shall issue documents for proving identity, legal status and rights, and documents for traveling abroad, as

ovog zakona.

Zahtjev za izdavanje isprava maloljetnim i poslovno nesposobnim punoljetnim licima podnosi roditelj odnosno staratelj.

Obrasci isprava iz stava 1 ovog člana, imaju Grb Crne Gore i štampaju se na jeziku koji je u službenoj upotrebi u Crnoj Gori i engleskom jeziku, a popunjavaju se na jeziku koji je u službenoj upotrebi.

Vlada propisuje izgled i sadržaj obrazaca i način izdavanja isprava iz stava 1 ovog člana.

Obaveze imaoaca isprava

Član 66

Lice je obavezno da isprave za dokazivanje identiteta nosi sa sobom i da ih pokaže na zahtjev službenog lica koje je zakonom ovlašćeno da utvrđuje identitet.

Isprave iz člana 65 stav 1 ovog zakona moraju se vratiti nakon okončanja postupka za davanje azila, prestanka ili ukidanja statusa izbjeglice i dodatne zaštite, prestanka privremene zaštite ili u slučaju zamjene isprave.

Zabranjeno je davanje isprava iz člana 65 stav 1 ovog zakona na posluhu drugom licu ili upotreba tuđe isprave kao svoje.

Nestanak ili oštećenje isprava lica je obavezno prijaviti u roku od dva dana od dana nestanka ili oštećenja.

Identifikacione isprave

Član 67

Identifikaciona isprava lica koje traži azil važi do donošenja konačne odluke po zahtjevu za dobijanje azila.

Identifikaciona isprava lica kojem je odobrena dodatna zaštita izdaje se sa rokom važenja od jedne godine, sa mogućnošću produženja roka važenja za šest mjeseci.

Identifikaciona isprava lica kojem je odobrena privremena zaštita izdaje se sa rokom važenja od jedne godine, sa mogućnošću produženja roka važenja za po šest mjeseci, a najduže za jednu

prescribed by this Law.

An application for the issuance of documents for minors and persons of age without legal capacity shall be submitted by a parent or guardian.

The forms for the documents referred to in paragraph 1 of this Article shall carry the coat of arms of Montenegro and shall be printed in the language in official use in Montenegro and in the English language, and shall be filled out in the language in official use.

The Government shall prescribe the format and contents of the forms and the method for the issuance of the documents referred to in paragraph 1 of this Article.

Obligations of the Holder of Documents

Article 66

A person is obligated to carry with himself or herself the documents for proving identity, and to produce them at the request of an official authorized by law to establish identity.

The documents referred to in Article 65, paragraph 1, of this Law shall be returned to the Office after the completion of the asylum procedure, cessation or revocation of refugee status and subsidiary protection, cessation of temporary protection or in the case of document replacement.

It is prohibited to lend documents referred to in Article 65, paragraph 1, of this Law, to another person or to use somebody else's documents as one's own.

A person is obligated to report the loss or damage of documents within two days from the day of loss or damage.

Identity Papers

Article 67

The identity document of an asylum seeker shall be valid until the adoption of a final decision on his or her asylum application.

The identity document of a person accorded subsidiary protection shall be issued with a validity period of one year, and this period may be extended for six months.

The identity document of a person accorded temporary protection shall be issued with a validity period of one year, and may be extended for six-month periods for up to one year.

godinu.

Lična karta licu kojem je priznat status izbjeglice izdaje se sa rokom važenja od 10 godina.

Licu kojem je priznat status izbjeglice koje je, u momentu izdavanja isprave iz stava 4 ovog člana, mlađe od 18 godina života, lična karta izdaje se sa rokom važenja od pet godina.

Isprave iz st. 1 do 5 ovog člana izdaju se po službenoj dužnosti nakon podnošenja zahtjeva za dobijanje azila, odnosno davanja azila.

Putna isprava

Član 68

Putna isprava izdaje se na zahtjev lica kojem je priznat status izbjeglice, koje je navršilo 18 godina života.

Putna isprava izdaje se sa rokom važenja od dvije godine i može se produžiti.

Maloljetno lice može biti upisano u putnu ispravu roditelja ili staratelja, dok ne navrši 14 godina života.

Izdavanje putne isprave iz stava 1 ovog člana ne daje imaoocu pravo na zaštitu od strane diplomatsko-konzularnog predstavništva i ne daje tim predstavništvima pravo na pružanje zaštite imaoocu te isprave.

Odredbe st. 1 i 4 ovog člana odnose se i na izdavanje putnog lista za strance.

Odbijanje zahtjeva za izdavanje i oduzimanje putne isprave

Član 69

Zahtjev za izdavanje putne isprave licu kojem je priznat status izbjeglice odbiće se iz razloga bezbjednosti i javnog poretka, ako:

- 1) se vodi krivični postupak, na zahtjev suda;
- 2) je izrečena безусловna kazna zatvora, dok kaznu ne izdrži.

Ako su razlozi iz stava 1 ovog člana postojali prije izdavanja putne isprave, a za njih se saznalo kasnije ili su nastali nakon izdavanja isprave, putna isprava

The identity card of a person recognized as a refugee shall be issued with a validity period of 10 years.

For a recognized refugee who is under 18 years of age at the time of issue of the document referred to in paragraph 4 of this Article, the identity card shall be issued with a validity period of five years.

The documents referred to in paragraphs 1 through 5 of this Article shall be issued *ex officio*, after the submission of an asylum application, or the granting of asylum.

Travel Document

Article 68

A travel document shall be issued at the request of a recognized refugee who has attained 18 years of age.

A travel document shall be issued with a validity period of two years and may be renewed.

A minor may be entered in his or her parent's or guardian's travel document up until the age of 14 years.

The issuance of the travel document referred to in paragraph 1 of this Article shall not give the holder the right to protection by diplomatic-consular representative missions, nor shall it give the right to such missions to extend protection to the document holder.

The provisions of paragraphs 1 and 4 of this Article shall also apply to the issuance of aliens' travel documents.

Rejection of Application for Issuance of Travel Document and Its Withdrawal

Article 69

An application for the issuance of a travel document to a recognized refugee shall be rejected for reasons of security and public order if:

- 1) criminal proceedings are in progress, initiated by a court of law;
- 2) an effective prison term has been imposed, until the sentence has been served.

If the reasons referred to in paragraph 1 of this Article existed before the issuance of the travel document but are learned of later, or if they arose

će se oduzeti.

Žalba protiv rješenja iz st. 1 i 2 ovog člana ne odlaže izvršenje rješenja.

X. EVIDENCIJE I ZAŠTITA PODATAKA

Evidencije

Član 70

Organ iz člana 19 ovog zakona uspostavlja, vodi, ažurira i koristi evidencije o licima: koja traže azil, kojima je priznat status izbjeglice i odobrena dodatna ili privremena zaštita, pravima koja koriste, ispravama izdatim u skladu sa ovim zakonom i privremeno zadržanim ispravama.

Vlada propisuje sadržaj i način vođenja evidencija iz stava 1 ovog člana.

Podaci iz evidencija iz stava 1 ovog člana dostavljaju se državnim organima koji imaju zakonom utvrđeno pravo korišćenja tih podataka.

Prikupljanje podataka

Član 71

Organ iz člana 19 ovog zakona može, za vođenje postupka, prikupljati podatke o licima koja traže ili kojima je dat azil, od državnih organa i organa lokalne samouprave radi utvrđivanja identiteta i postojanja razloga za isključenje, prestanak i ukidanje statusa, u mjeri u kojoj je to potrebno za obavljanje poslova utvrđenih ovim zakonom.

Organi iz stava 1 ovog člana, koji raspolazu podacima koji se odnose na lica iz stava 1 ovog člana, obavezni su dostaviti podatke prvostepenom organu na njegov zahtjev.

Podaci iz st. 1 i 2 ovog člana prikupljaju se i dostavljaju u skladu sa međunarodnim dokumentima i propisom o zaštiti ličnih podataka.

Razmjena podataka

Član 72

Organ iz člana 19 ovog zakona može, na osnovu međunarodnog ugovora, razmjenjivati podatke o

after the issuance of the document, the travel document shall be withdrawn.

An appeal against the decision referred to in paragraphs 1 and 2 of this Article shall not have suspensive effect.

X. RECORDS AND DATA PROTECTION

Records

Article 70

The body referred to in Article 19 of this Law shall collect, keep, update and utilize records on: asylum seekers, recognized refugees, persons accorded subsidiary or temporary protection, the rights these people are exercising, documents issued in accordance with this Law and temporarily seized documents.

The Government shall prescribe the contents of, and method for keeping, the records referred to in paragraph 1 of this Article.

The data from the records under paragraph 1 of this Article shall be furnished to government bodies that have the statutory right to use these data.

Information Gathering

Article 71

The body referred to in Article 19 of this Law may, for the purpose of conducting the procedure, gather information on asylum seekers or persons who have been granted asylum, from government authorities and authorities of local self-government, in order to establish identity and the existence of reasons for exclusion, cessation and revocation of status, to the extent necessary for the performance of the tasks laid down by this Law.

The authorities referred to in paragraph 1 of this Article that are in possession of data on the persons referred to in paragraph 1 of this Article are obligated to provide these data to the first instance body upon its request.

The data referred to in paragraphs 1 and 2 of this Article shall be gathered and disseminated in accordance with international instruments and the regulation on personal data protection.

Exchange of Information

Article 72

The body referred to in Article 19 of this Law may, on the basis of international agreements, exchange

licima na koja se odnosi ovaj zakon sa organima drugih država nadležnim za azil, osim sa državom porijekla, pod uslovom da ta država garantuje odgovarajuću zaštitu podataka.

Izuzetno, radi izvršavanja odluke o vraćanju ili protjerivanju, lica čiji je zahtjev za dobijanje azila konačno odbijen ili kojem je, konačnom odlukom prestao ili ukinut azil, mogu se sa nadležnim organima drugih država razmjenjivati sljedeći podaci: ime i prezime, datum rođenja, pol, državljanstvo, mjesto stalnog boravka i adresu stana, podaci o članovima porodice, podaci o ispravama koje je izdala država porijekla i podaci o otiscima prstiju i fotografija.

XI. KAZNENA ODREDBA

Član 73

Novčanom kaznom od jednostrukog do petostrukog iznosa najniže cijene rada u Crnoj Gori kazniče se za prekršaj lice, ako:

- 1) sa sobom ne nosi identifikacione isprave (član 66 stav 1);
- 2) na zahtjev ovlašćenog lica, u slučajevima i pod uslovima propisanim zakonom, odbije da na uvid ispravu za dokazivanje identiteta (član 66 stav 1);
- 3) ne vrati ispravu po okončanju postupka ili u slučaju zamjene isprave (član 66 stav 2);
- 4) svoju ispravu da na poslu drugom licu ili koristi tuđu ispravu kao svoju (član 66 stav 3);
- 5) ne prijavi, ili neblagovremeno prijavi nestanak ili oštećenje isprave (član 66 stav 4).

XII. PRELAZNE I ZAVRŠNE ODREDBE

Član 74

U roku od šest mjeseci od dana stupanja na snagu ovog zakona:

- Vlada će imenovati Državnu komisiju, propisati izgled i sadržaj obrazaca isprava, način izdavanja isprava i propisati sadržaj i način vođenja evidencija;

information on persons to whom this Law applies with the asylum authorities of other states, other than the country of origin, provided that the state concerned guarantees the appropriate protection of data.

Notwithstanding the above, for the purpose of executing a decision on the return or expulsion of a person whose asylum application has been rejected by virtue of a final decision, or whose asylum has ceased or has been revoked by virtue of a final decision, the following information may be exchanged with the competent authorities of other countries: first and last name, date of birth, sex, citizenship, place of habitual residence and address of the apartment, information on family members, data on the documents issued by the country of origin and data on fingerprints and photograph.

XI. PENAL PROVISIONS

Article 73

A fine from one to five times the amount of the minimum wage in Montenegro shall be imposed on a person who:

- 1) does not carry identification papers with himself or herself (Article 66, paragraph 1);
- 2) at the request of an authorized official and in the cases and under the conditions prescribed by law, refuses to produce a document proving his or her identity (Article 66, paragraph 1);
- 3) fails to return a document upon the completion of the procedure or in the case of its replacement (Article 66, paragraph 2);
- 4) lends his or her document to another person or uses another person's document as his or her own (Article 66, paragraph 3);
- 5) fails to report or to timely report the loss or damage of a document (Article 66, paragraph 4).

XII. TRANSITIONAL AND FINAL PROVISIONS

Article 74

Within six months from the date of entry into force of this law:

- The Government will appoint the State Commission, prescribe the appearance and content of the document forms, the manner of the issuance of documents, and the content and manner of keeping records;

- Ministarstvo će propisati obrazac zahtjeva za dobijanje azila i obrazac zapisnika i postupak i način uzimanja podataka iz člana 26 stav 1 ovog zakona;

- Ministarstva nadležna za poslove socijalne zaštite, obrazovanja i zdravstva propisaće iz svoje nadležnosti način ostvarivanja prava iz čl. 29, 44, 55 i 60 ovog zakona.

Član 75

Status izbjeglice priznat strancu na osnovu Zakona o kretanju i boravku stranaca ("Službeni list SFRJ", br. 56/80, 53/83, 26/90 i 53/91 i "Službeni list SRJ", br. 24/94 i 28/96) produžava se, ako se u postupku utvrdi da lice na dan početka primjene ovog zakona stalno boravi u Crnoj Gori i da ne postoje razlozi za prestanak ili ukidanje statusa izbjeglice propisani ovim zakonom.

Status izbjeglice priznaće se licima kojima je priznat status raseljenog lica na osnovu Uredbe o zbrinjavanju raseljenih lica ("Službeni list RCG" br. 37/92), ako se u postupku utvrdi da raseljeno lice, na dan početka primjene ovog zakona, stalno boravi u Crnoj Gori i da ne postoje razlozi za prestanak ili ukidanje statusa izbjeglice propisani ovim zakonom.

Postupci započeti po odredbama Zakona o kretanju i boravku stranaca i Uredbe o zbrinjavanju raseljenih lica okončaće se po odredbama ovog zakona.

Član 76

Danom početka primjene ovog zakona prestaje primjena odredaba čl. 44 do 60 Zakona o kretanju i boravku stranaca ("Službeni list SFRJ", br. 56/80, 53/83, 26/90 i 53/91 i "Službeni list SRJ", br. 24/94 i 28/96) i prestaju da važe odredbe Uredbe o zbrinjavanju raseljenih lica ("Službeni list RCG", br. 37/92) koje su u suprotnosti sa ovim zakonom.

Član 77

Ovaj zakon stupa na snagu osmog dana od dana objavljivanja u "Službenom listu Republike Crne Gore", a primjenjivaće se nakon isteka roka od šest mjeseci od dana stupanja na snagu.

- The Ministry will prescribe a form for asylum applications and a form for recording testimony, and the procedure and manner of collecting the data referred to in Article 26, paragraph 1, of this Law;

- The ministries with competence over issues of social protection, education and health will prescribe, within their own competencies, the manner of exercising rights under Articles 29, 44, 55 and 60 of this law.

Article 75

Refugee status recognized on the basis of the Law on the Movement and Residence of Aliens ("Official Gazette SFRY", Nos. 56/80, 53/83, 26/90, 53/91; "Official Gazette FRY", Nos. 24/94, 28/96) shall be extended if it is established through proceedings that the person is habitually residing in Montenegro on the day of the commencement of this Law's implementation, and that there are no reasons for cessation or revocation of refugee status as prescribed by this Law.

Refugee status shall be recognized with respect to persons who were recognized as having the status of displaced persons pursuant to the Decree on the Care of Displaced Persons ("Official Gazette RM", No. 37/92) if it is established through proceedings that the displaced person is habitually residing in Montenegro on the day of the commencement of this Law's implementation, and that there are no reasons for cessation or revocation of refugee status as prescribed by this Law.

Procedures initiated under the provisions of the Law on the Movement and Residence of Aliens and the Decree on the Care for Displaced Persons shall be completed pursuant to the provisions of this Law.

Article 76

On the day of the commencement of this Law's implementation, the provisions of Articles 44 through 60 of the Law on the Movement and Residence of Aliens ("Official Gazette SFRY", Nos. 56/80, 53/83, 26/90, 53/91; "Official Gazette FRY", Nos. 24/94, 28/96) shall cease to be valid, as shall those provisions of the Decree on the Care of Displaced Persons ("Official Gazette RM", No. 37/92) that are contrary to this Law.

Article 77

This Law shall enter into force on the eighth day from the day of its publication in the "Official Gazette of the Republic of Montenegro", and it shall be implemented after the expiry of a six-month period from the day of its entry into force.

"Službeni list RCG", broj 45/2006

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